

HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW IN COLOMBIA

**Joint submission by the Coalition of Colombian human rights
organizations for the Universal Periodic Review (UPR)**

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Presentation

This report is the result of the joint efforts of over 588 coalitions, networks, and organizations recognized for their human rights work in Colombia. They have dedicated months to monitoring Colombian state compliance with the recommendations of the 2018 UPR.

Organized into eleven chapters, the report reflects the Colombian contexts of human rights, humanitarian law, and peace, in light of the 2018 recommendations.

The participants in the preparation of this document are as follows:



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Glossary

AGC: Autodefensas Gaitanistas de Colombia (Gaitanista Self-Defense Forces of Colombia)

CAI: Comando de Atención Inmediata (Immediate Attention Police Command Post)

CC: Colombian Constitutional Court

DC: Detention Centers

CDT: Centro de Detención Transitoria (Transitory Detention Center)

CEV: Comisión para el Esclarecimiento de la Verdad, la convivencia y la no repetición (Commission for the Clarification of Truth, Coexistence, and Non-repetition)

CIDT: Cruel, inhumane, or degrading treatment

CNGS: Comisión Nacional de Garantías de Seguridad (National Commission for Security Guarantees)

ECI: Estado de Cosas Inconstitucional (Unconstitutional state of affairs)

ERON: Establecimientos de Reclusión de Orden Nacional (National prison facilities)

ESMAD: Escuadrón Móvil Antidisturbios de la Policía (Anti-riot Police squad)

FPA: Final Peace Agreement

INPEC: Instituto Nacional Penitenciario y Carcelario (National Penitentiary and Prison Agency)

JEP: Jurisdicción Especial para la Paz (Special Jurisdiction for Peace)

LGBTIQ+: Lesbian, gay, bisexual, trans, intersex, queer, and non-binary persons

NNA: Niñas, niños, y adolescentes (children and adolescents)

NAPHR: Plan Nacional de Acción en Derechos Humanos (National Human Rights Action Plan)

SOGIE: Sexual orientation, gender identity and expression

SOGI: Sexual orientation and gender identity

OP: Optional protocol

PNG: Proceso Nacional de Garantías (National Guarantees Process)

PDL: Persons deprived of liberty

PwD: Persons with disabilities

UBPD: Unidad de Búsqueda de Personas dadas por Desaparecidas (Search Unit for Disappeared Persons)

UEI: Unidad Especial de Investigación para el Desmantelamiento de Organizaciones Criminales (Special Investigation Unit for Dismantling Criminal Groups)

Introduction

Colombia has failed to fulfill the recommendations of past cycles. A lack of FPA¹ implementation, among other factors, has intensified violence in the context of the armed conflict. Furthermore, restrictions related to the COVID-19 pandemic and a disproportionate state response to protests, intensified human rights violations. An increase in attacks against human rights defenders, social leaders, and signatories of the peace agreement, violations of the rights of NNA,² and an institutional weakening that undermined the rule of law, are some of the more relevant problems during this period.

During 2022, a new administration was elected with affinity for matters of human rights and peace, declaring its willingness to comply with the recommendations made to Colombia to protect and guarantee human rights. Beyond its commitment to the effective implementation of the FPA, it has committed to ending violence in Colombia through a policy called *Total Peace*. It is also promoting broad social reforms. As such, this UPR is vital for the state to identify Colombia's serious gaps in the compliance in the areas of human rights and peace, and for it to pledge to respond to the recommendations made to improve this situation.

1. Implementation of the Final Peace Agreement

Assessment of the Implementation of the Agreement

The recommendations on these issues were not fulfilled by the state. There were setbacks and acts of corruption related to the implementation of all six points of the FPA.³ The state failed in extending its presence to the far away and most affected by the armed conflict areas. In terms of security guarantees, 361 signatories of the agreement have been killed up to 9/12/2022.⁴ The CC declared an ECI in 2022 due to the low levels of implementation of security guarantees.⁵ According to the UN

¹The November 2016 Final Peace Agreement signed between the national government and the former FARC-EP guerrilla had six central points oriented at ending the war and the laying down of arms, resolving the issue of illicit drugs, comprehensive rural reform, victims' rights, political participation guarantees and democratic opening, and verification of compliance with the accord.

²Despite the Colombian state's stated interest in defending the rights of children and adolescents, a violation of their rights is evidently ongoing and growing. NNA continue to suffer from invisibility. Their rights are not guaranteed, including their political rights, even though Colombian laws recognize their right to assembly and to association for social, cultural, sports, recreational, religious, and political objectives, or for any other reason, in Article 32 of Law 1098 (2006). Nonetheless, according to information collected in the report "*Por el derecho a luchar y la no violencia contra las niñas, niños y adolescentes*" (For the Right to Protest and Non-violence against Children and Adolescents)" the [political] participation of children and youth is evaded by state authorities, while the National Police applies serious force against them. Proof of this are the 86 documented assassinations during the social uprising that initiated on April 28. 4.65% of the individuals killed were children and adolescents.

³The points of the Peace Agreement are: 1. Towards a new Colombian countryside: comprehensive rural reform, 2. Political participation: democratic opening for peacebuilding, 3. End of the conflict, 4. Solution to the problem of illicit drugs, 5. Agreement on the victims of the conflict, and point 6. Implementation, verification, and public endorsement.

⁴Source: Investigation and Prosecution Unit (UIA) of the JEP Available at: https://www.jep.gov.co/uia/Paginas/mecanismo_monitoreo/index.aspx

⁵Ruling SU-020-22. Reporting judge Cristina Pardo Schlesinger. Assortment of dossiers: T-7.987.084, T-7.987.142, T-8.009.306 y T-8.143.584 AC.

Verification Mission,⁶ the reincorporation of the peace agreement's signatories is threatened by considerable challenges such as insecurity⁷ and other economic and social⁸ factors.

Despite this context, the CEV published its final report on 28/06/2022, after three and a half years of research and broad dialogue with people from all swaths of Colombian society, and the more than one thousand reports received from different parties. A committee was formed to monitor and evaluate the implementation of its recommendations.⁹ The JEP¹⁰ has opened ten macro-cases.¹¹ In cases 001 and 003, important progress has been made—two concluding resolutions have been handed down.¹² Nonetheless, some victims are dissatisfied with the insufficient acknowledgement of responsibility and contributions to truth by those processed by this judicial body. Thanks to the advocacy of women's rights organizations, the JEP has announced macro-case 11 on sexual violence and other gender-based crimes, which has raised high expectations.

The new Government's *Total Peace* policy should prioritize the prompt implementation of the FPA as a sign of its commitment, as the best way to improve the human rights situation, and as the ground for further peace talks.

⁶United Nations Verification Mission in Colombia. (2022). Report of the Secretary General for the June 28 to September 26, 2022 period (S/2022/715). Available at: https://colombia.unmissions.org/sites/default/files/sp_n2260317.pdf

⁷In the face of this, the SAR [Absence of Acknowledgment of Truth and Responsibility for Facts and Conduct Section] of the JEP has promoted and built momentum toward compliance with the agreement's commitments on security guarantees by formalizing protective measures in favor of the peace agreement's signatories in Court Order 057 of 29 April 2020. Likewise, the Constitutional Court has declared an "*Unconstitutional State of Affairs (ECL) over low levels of implementation of the security guarantees component for the community of signatories transitioning to civilian life, as outlined in number 3.4 of the final peace agreement in agreement with constitutional and legal norms.*" In Ruling SU-020 of 27 January 2022 the Court ordered "a set of structural measures to achieve parity between institutional action and the norms issued by the Final Agreement." See: <https://www.corteconstitucional.gov.co/comunicados/Comunicado%20No.%20001%20Enero%2027%20de%202022.pdf>

⁸Other challenges are found "in the component on economic and social stabilization, [given that] difficulties and challenges persist in terms of ex-combatants' access to land for their economic projects and to rural and urban housing." Technical Secretariat for the Component on International Verification CINEP/PPP-CERAC (2022). Eleventh Verification Report on the Implementation of the Final Peace Agreement in Colombia, p. 62. Available at: <https://www.cinep.org.co/es/undecimo-informe-de-verificacion-de-la-implementacion-del-acuerdo-final-de-paz-en-colombia/>

⁹Monitoring and Evaluation Committee (CSM) on the implementation of recommendations for the non-repetition of the armed conflict (2022). See: <https://www.comisiondelaverdad.co/comite-de-seguimiento#:~:text=El%20Comit%C3%A9%20de%20Seguimiento%20y%20Monitoreo%20a%20las%20recomendaciones%20de,info%20Final%20de%20la%20Comisi%C3%B3n.>

¹⁰In the JEP, the UP [Patriotic Union] case has advanced with 23 voluntary testimonies taken from 30 appearing parties, the accreditation of 293 individual victims, and 4 collective subjects with the same situation. Likewise, Court Order 075 of 2055 defined a provisional realm of victims of lethal violence from 5,733 events. Up to now, there have been no court orders to make a determination of facts and conducts, or any conclusive resolutions. In the CEV, the UP case figured in at least four volumes of its final report and was presented in depth in "*La esperanza acorralada, El genocidio Contra la Unión Patriótica* (Hampered Hope, the Genocide of the Patriotic Union)." In the UBP, the UP case is progressing with the documentation of 282 cases of disappearance in 18 departments and the development of a search pilot plan. Furthermore, the National Strategic Roundtable is being organized as a space to design diverse search actions for forcibly disappeared members of the Patriotic Union.

¹¹**Case 01:** Taking of hostages, serious deprivations of liberty and other concurrent crimes committed by the FARC-EP; **Case 02:** Territorial situation of Nariño; **Case 03:** Assassinations and enforced disappearances committed by state agents and falsely presented as combat casualties; **Case 04:** Territorial situation of Urabá; **Case 05:** Territorial situation in the region of Northern Cauca and Southern Valle de Cauca; **Case 06:** Victimization of the Patriotic Union; **Case 07:** Recruitment and use of children and adolescents in the armed conflict; **Case 08:** Crimes committed by the state security forces, state agents in association with paramilitary groups or civilian third parties in the armed conflict; **Case 09:** Crimes against ethnic peoples; **Case 10:** Unpardonable crimes committed by the former FARC-EP in the context of the Colombian armed conflict.

¹²SRVR (20 October 2022) Conclusive Resolution No. 01 of 2022: Case number 03, Norte de Santander subcase; SRVR (24 November 2022) Conclusive Resolution No. 02 of 2022: Case number 01, Norte de Santander subcase.

Implementation of the Ethnic Chapter

The measures in this chapter have not been implemented. As such, the 2018 UPR recommendations geared at protecting and guaranteeing the human rights of ethnic peoples¹³ have not been fulfilled. Afro-descendant¹⁴ and Indigenous peoples continue to experience the scourges of war in their territories, as was affirmed by the CEV's final report.¹⁵ Of the ten macro-cases opened by the JEP, four of them deal with ethnic territories.¹⁶ It is evident in the lagging implementation of this chapter relative to other parts of the agreement that ethnic matters continue to take a backseat in the country.¹⁷

Implementation of Measures for Women Laid Out in the Agreement

The gender measures are generally and continuously at a standstill¹⁸ due to the limited fulfillment of the contents of the Final Agreement's¹⁹. Likewise, the funds allocated to the cross-cutting incorporation of the gender measures in 2020 and 2021 present a reduction²⁰ contrary to the momentum required to close gender²¹ gaps.²² We recommend a plan to fast-track comprehensive implementation and gender-sensitive²³ budget allocations.

¹³In the 2018 UPR recommendations made by Serbia, Nigeria, Australia, New Zealand, and the United Kingdom of Great Britain and Northern Ireland, emphasis was placed on special protections for the ethnic peoples categorically affected by the armed conflict, even though progress has been made on affirmative action to guarantee protection measures for leaders and the civilian population.

¹⁴For the purposes of this document, the entirety of Black, Afro-Colombian, Raizal, and Palenquero peoples will hereafter be named as such.

¹⁵The Commission for the Clarification of the Truth published its final report in June 2022. One of its chapters called *Resistir no es Aguantar: Violencias y daños contra los pueblos étnicos del Colombia* (Resistance Isn't Tolerance: Violence and harm against ethnic peoples in Colombia) outlines the different events and situations that have historically put at risk the country's ethnic and multicultural diversity represented by Indigenous, Black, Afro-Colombian, Raizal, Palenquero, and Rom peoples. This responds to the structural and systemic violence that has been perpetrated against these communities. According to the last report by the Ombud's Office, the number of victims of forced displacement and assassinations against human rights defenders continues to be concentrated among Indigenous and Afro-descendant communities and individuals.

¹⁶Case 002 prioritizes the territorial situation of Ricaurte, Tumaco, and Barbacoas (Nariño), Case 003: assassinations and enforced disappearances presented as combat casualties by state agents, Case 004: the territorial situation of Urabá, Case 005 prioritizes the territorial situation in the region of Northern Cauca and Southern Valle de Cauca, Case 009: the investigation of crimes committed against ethnic peoples and territories. Specifics on the JEP cases are available at <https://www.jep.gov.co/especiales1/macrocasos/index.html>

¹⁷Kroc Institute, 2021, 43. Recognition and Guarantees for the Protection and Participation of Ethnic Peoples in Peacebuilding. Special report on the effective status of the implementation of the cross-sectional ethnic approach in the Colombian Final Peace Agreement. South Bend: University of Notre Dame, Kroc Institute. <https://peaceaccords.nd.edu/wp-content/uploads/2021/01/200122-Final-Ethnic-Report-Spanish.pdf>

In terms of fortifying political participation processes, it continues to be a challenge to guarantee and defend the right to life and security of Afro-descendant and Indigenous leaders. The weakening of social movements and human rights defenders has been documented, even after the signing of the peace agreement. According to a 2021 report published by Indepaz, 1,201 social leaders have been murdered, a large number of them Indigenous and Afro-descendant.

¹⁸There has been progress on only 20% of gender-based measures. 50% have had partial improvements, 26% have had no progress, and no information is available on 4% of them (Sisma Mujer, 2021).

¹⁹CINEP/PPP-CERAC, 2022, p.189.

²⁰CGN, 2021, p. 102

²¹CGR, 2022, p. 250

²²In 2020 and 2021, for example, financing for gender gains represented only 3% of the total National General Budget allocated to implementation (CGR, 2022, p. 251).

²³LIMPAL, 2022

FPA Implementation from a LGBTIQ+ Perspective

More than 80% of these measures²⁴ have not been satisfactorily implemented.²⁵ In terms of access to transitional justice, LGBTIQ+ individuals have had limited participation because of a lack of institutional services and methodologies that incorporate a gender approach.²⁶ In the context of the JEP, recognition of instances of violence against this population has been poor.²⁷ Hopefully, the opening of macro-case 11 will guarantee access for this population.²⁸

Corruption and Diversion of Resources from Peace

The administration of former president Iván Duque poorly administered the monies allocated for FPA implementation. In 2020, it came to light that fund allocation and resource execution of international peace aid was lacking in participation and transparency.²⁹ During the last months of the administration serious evidence was found of different acts of corruption, given that recorded expenditures had no relationship to FPA implementation, and that all of the funds have been expended.³⁰

²⁴With regard to point two of the agreement establishing measures to improve the quality of life of the rural population, no measures are considered for LGBTIQ+ persons to access land. No measures are even considered for lesbian, bisexual, and trans women within the measures adopted for women. The Sectorial National Plans do not comply with the implementation of specific strategies for them. These two points have the lowest inclusion for LGBTQ+ people. These plans are responsible for [guaranteeing] access to basic rights like healthcare, work, food, and housing for people from rural areas affected by the conflict.

²⁵Colombia Diversa, Fokus, & United Nations- Fund to Consolidate Peace. "How is implementation of the Agreement going for LGBT people?" available at: https://colombiadiversa.org/c-diversa/wp-content/uploads/2021/11/Implementacion-de-la-paz_personas-LGBT.pdf

Grupo de Género en la Paz (Gpaz), Status of measures for LGBT individuals up to 2020. Available at: https://colombiadiversa.org/c-diversa/wp-content/uploads/2021/11/Implementacion-de-la-paz_personas-LGBT.pdf

²⁶It is important to mention that the methodologies used up to now do not allow for contributions to the truth or legal recognition of hate crimes against SOGI individuals as experienced by LBGTQ+ people in the context of the armed conflict. For more information see: Cinco Claves. 2021. Lessons from Litigation before the Special Jurisdiction for Peace. <https://colombiadiversa.org/eng/publicaciones/>

²⁷In the cases opened to date by the JEP, appearing parties have tended to deny events of violence and discrimination against LGBT persons. This conduct has been systematic in the hearings, calling into question the scope of conditionality regimes. In this context, there is a hindrance to comparing information and reconstructing truth because the JEP only has information from ordinary [justice] bodies and victims. This means that, in the absence of the collaboration of appearing parties, the goal of a dialogical construction [of the truth] is tarnished. Even when the JEP observes incomplete and glaringly false responses, there is no evidence of its chambers giving active or uniform responses to bolster the commitment of appearing parties. On the contrary, the JEP prescribed that voluntary accounts be provided in written form in a number of the macro-cases, which limits the role of LGBTQ+ victims' legal representatives; allowing these statements to be written permits a thorough pre-meditation of the language used in responses, and rules out follow-up questions to the statements rendered. On the other hand, a lack of appropriate methodologies to inquire into dynamics related to gender and sexuality, and the questions formulated on such matters, are reflective of seeing them as accessory, dispensable, or as having no direct relation to the determining conducts of the conflict. Furthermore, when related questions are made, they are formulated so as to explicitly reference *socially and legally culpable conducts*, for example, "did you discriminate against or exclude vulnerable groups?", "Did you know about cases of sexual violence?" Such questions hint at, and practically induce, an automatic response of "no" or "none."

²⁸It is important to highlight that the state's failure to appropriately collect data to lend visibility to this population hampers an appropriate verification of the implementation of this perspective within the Agreement.

²⁹There are four international aid funds to implement the Final Agreement: the World Bank's Peace and Post-conflict Fund, the United Nations' Multi-Partner Trust Fund for Sustaining Peace in Colombia, the EU Trust Fund for Peace, and the Inter-American Development Bank's Sustainable Colombia fiduciary fund. Each fund has its topical and geographical priorities and, from the outset, should be articulated with the Colombia Peace Fund. To guarantee that use contributes to the Final Agreement's implementation, it is important to *insist that they be administered transparently and participatively, that they be allocated to tasks included in the Final Agreement, and that they be executed from a perspective of promoting the full enjoyment of rights...[On the topic of governance]* Even if it is possible to consult information related to contracting processes, as well as financial execution reports, the Fund's websites, does not provide clarity on other aspects: decision-making processes, the possibility of citizen participation in decision-making, and other involved actors... *[In relation to transparency]* It is not easy to establish the specific use of all resources, except for in the cases of the EUTF and World Bank fund, even though the latter represents a minimal amount compared to the others. It is not always possible to identify how they are articulated with what is prescribed in the Implementation Plan Framework and in the substantive content of the Final Agreement." Source: "Los recursos de Cooperación Internacional para la Paz y el manejo que hace de ellos el gobierno" in PCDHDD-CCEEU-Alliance [2020] The Apprentice's Misrule: Authoritarianism, War, and Pandemic. Bogotá D.C., pp. 311-317.

³⁰In light of an absence of clear information to always identify the specific use of resources associated with FPA implementation, the national government's transition team presented a report with general and specific recommendations such as: a. Request of the National

2. Armed Conflict and IHL

Continuance of the Armed Conflict

The national government did not comprehensively apply the recommendations made to Colombia in 2018's UPR.³¹ Non-fulfillment of the FPA caused the armed conflict to intensify in the country between 2018 and 2022, giving rise to a serious humanitarian crisis.³² In at least 15 regions,³³ ethnic and peasant communities have been the principal victims.³⁴ Women, children, and adolescents continue to be the most impacted. All the legal or illegal armed groups breached IHL.³⁵ During these

Comptroller General a special audit with international oversight of all resources allocated to investment in and the running of entities within the Peace sector, especially those allocated to implementation of the Zonas Futuro and OCAD-Paz; **b.** Review and adjust with contract executors, supervisors, and comptrollers the state of contracts and agreements being executed; **c.** The Office of the High Commissioner for Peace (OACP) does not have its own budget. Its operations are guaranteed through the Special Programs for Peace Fund. To guarantee fulfillment of the entity's mission in terms of what remains of the current annuity, a budget request must necessarily be submitted. Service agreement contracts pertaining to the entity's mission will be up on September 15; **d.** Presidential Advisory Office on Human Rights and IHL: of the information received by the DAPRE, contract execution is low in this entity, making necessary the designation of personnel to supervise and audit contracts (especially those designated for the realization of the Zonas Futuro; **e.** Reincorporation and Normalization Agency (ARN): review the use of future funds allocated to 54 contracts that leadership intends to establish, especially i) the IT service contract (management of the Services and Support Center, management of the LAN/WLAN network service, IP telephone technology, monitoring and security services, asset management, equipment maintenance and support services and ancillary services) for \$33,723,098,617, ii) the contract for surveillance services and weaponless private security, including the rental and operation of technological means (metal detectors, x-ray machines) and closed-circuit television monitoring for the territorial groups and national attention centers and the ARN's central level buildings for \$18,004,538,817. Taking into account that 1.73 billion have been allotted to develop and implement the dissemination strategy of the special harmonization program required by protocol, which is directed at Indigenous authorities over the course of this year, it is recommended that the resources be used efficiently to carry out the planning exercises for related expenses sufficiently in advance and that they be adjusted to the program's strategic objectives. It is important to guarantee food supply in the ETCR and NAR from as soon as the corresponding regulatory modifications are made until such a time that their economic projects attain self-sufficiency. In terms of mission-based contracts and operations and execution contracts, a review is needed of the 75 personal service contracts that amount to a total of over 8 billion that were signed for a one-year period (they expire in December of this year) and exceed 90 million per contract. The purchase of property that can be used for the entity's facilities should be considered as 18 years into operations, it continues to pay costly rent, which in the case of its central offices alone totals to \$7,616,237,646; **f.** The Territorial Renovation Agency (ART) did not deliver the required information despite reiterated requests. The agreed-upon work groups were not carried out either; **g.** Colombia at Peace Fund: monitor the projects that are in the formulation and execution stages to guarantee transparency in resource spending. Make budget requests to the Ministry of Finance while the fiduciary consortium requests resources to fulfill pending payments from 2022; **h.** Peace Fund: allocate resources to the proposals of the first 100 days [of the administration], designate resources for the negotiation process with the ELN, request resources from the Ministry of Finance for human resources contracts (2022) for the Peace and OACP funds, guarantee resources to relaunch the National Peace Advisory and the Municipal Peace Advisors; **i.** Victims' Fund: taking into account the high demand for resources required to satisfy the rights of the subjects of collective reparation, prioritize an allocation of existing resources in the fund's autonomous assets so that they can be spent in 2023 by the UARIV. **Source:** Transition team on Peace institutions and Final Peace Agreement implementation [August 2022], *Empalme implementación Acuerdo Final de PAZ Síntesis del diagnóstico y las recomendaciones*. Bogotá D.C., available at: <https://viva.org.co/2-uncategorised/757-empalme-implementacion-acuerdo-final-de-paz>

³¹In 2018, Austria, Spain, Argentina, Myanmar, Ukraine, the Bolivarian Republic of Venezuela, and Croatia submitted nine recommendations to the Colombian state to address the armed conflict, among them: 1) "take advantage of the current dialogues with the National Liberation Army guerrilla as an opportunity to insist on the need to reach a humanitarian agreement to protect the civilian population in areas of conflict," **an agreement that wasn't reached because the government closed the door to dialogue**; and 2) "take effective measures to address the prolonged humanitarian crisis caused by the armed conflict that affects millions of people, especially women and children, as indicated in the reports of United Nations bodies and civil society organizations," **a recommendation that was not adopted, causing ethnic peoples and peasants to experience the actions of armed groups with greater intensity**. In particular, women and children continued to be the most affected.

³²According to the report: *Cifras del gobierno de Iván Duque* by Indepaz, 2022: "Between 7 August 2018 and 1 August 2022, the country registered: 313 massacres with a total of 1,192 victims, 50,179 violent homicides, 2,366 threats, 220 cases of enforced disappearance, and 555 kidnappings; meanwhile OCHA informed that around 246,165 individuals had been forcibly displaced from their territories. These statistics also record data about massive displacements at the border. 298,400 individuals have been confined."

³³Arauca, Buenaventura, Bolívar, Valle de Cauca, Catatumbo, Caquetá, Guaviare, Chocó, Cauca, Córdoba, the Caribbean Coast, Magdalena Medio, Nariño, Putumayo, and Antioquia.

³⁴Currently, 9,395,274 victims of the armed conflict have been registered according to data from the Victim's Unit. Unified Victims Registry. Consulted on 12 December 2017. Available at: <https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

³⁵The military forces carried out bombardments that killed minors, such as Operation Atai on 29 August 2019 in which 8 minors died. See: Dejusticia, 2020: "On 2 March 2021 the Armed Forces bombed a drug trafficker camp in Calamar, Guaviare, killing three minors; On 16

four years, the AGC expanded its territorial presence and control,³⁶ as well as the ELN³⁷ and the dissidents of the former FARC-EP.³⁸ In its most recent report, the ICRC pointed out the existence of six active armed conflicts.³⁹

Despite this context of human rights violations within the armed conflict, further fueled by a weak state presence in rural Colombia, in 2022 and 2023 the defense sector's budget has been larger than the ones for FPA implementation.⁴⁰ It is important that the new administration progressively decrease financing for security and defense, and increase financing to implement the FPA and other programs that guarantee dignified conditions, gender inclusion, and reconciliation for communities.

Situation of Children and Adolescents

September 2021, the Armed Forces bombed an ELN camp in Litoral de San Juan, Chocó, killing four minors." According to the ICRC report, "Humanitarian Challenges. 2022. Colombia," 2021 was the year with the highest levels of violence since the Peace Agreement's signature: there were 77,568 internal forced displacements, 45,108 individuals in confinement, 486 victims of explosive artefacts, 168 cases of disappeared persons, and 553 attacks against medical and healthcare missions.

³⁶According to the report, "*Desafíos a la Paz Total. Lo que recibió el gobierno de Gustavo Petro. Informe sobre presencia de grupos armados en Colombia. 2021 -2022*," between 2016 and 2021, the AGC have had a constant presence in 131 municipalities, 44 of them in Antioquia, 23 in Córdoba, 21 in Chocó, and 12 in Sucre. 116 had a mid-level presence and 236 a low-level presence [...] In the three years following the FARC-EP's exit from armed conflict, records of AGC actions showed a downward trend in terms of the number of affected municipalities. This situation reversed beginning in 2020, and in 2021, statistics were the same as those of 2016, with 279 municipalities (42 more as compared to the year prior). The upward trend continued in the first quarter of 2022. This group's activities were identified in **326 municipalities**—including in municipalities for which the Ombud's Office had issued warnings. This is the highest registry during the sixteen years that Indepaz has been monitoring (2022, p. 11).

³⁷Between 2017 and 2021, the ELN consolidated its activities in 91 municipalities; in 73 of these, there are projects of expansion, constant passage, or dispute with the (illegal and legal) armed forces; in 152 municipalities, they have an occasional presence, 30 of which were recorded as first-time in 2021 [...] The ELN made important advances in the years following the FARC-EP's exit, reaching its apex in 2020 when activity was registered in 212 municipalities, 53 more than in 2017; however, after this increase, due to the actions of the State Security Forces and to confrontations with other illegally armed groups, the ELN retreated and some of their expansion processes were halted, reducing their territorial impact to 162 municipalities during the first quarter of 2022 (*Ibid*, p. 13).

³⁸It is important to mention that they are not consolidated in a single structure. Rather, they have dissimilar structures that are in dispute in a number of territories. Between 2017 and 2021, post-FARC groups have consolidated their activities in 60 municipalities; 36 have projects of expansion, constant passage, or of dispute with other (legal and illegal) armed forces; 108 have an occasional presence, 21 of which were recorded for the first time in 2021 [...] Since monitoring of post FARC activities began in 2017, its presence has been on the rise, doubling the number of municipalities affected by 2022 (*Ibid*, p. 67).

³⁹The six conflicts recognized by the ICRC are: the Colombian state vs. the National Liberation Army (ELN), Colombian state vs. Gaitanista Self-Defense Forces (AGC), Colombian state vs. former FARC-EP structures currently dissenting from the peace agreement, former FARC-EP structure currently dissenting from the peace agreement vs. the Second Marquetalia, National Liberation Army (ELN) vs. Gaitanista Self-defense Forces (AGC), former FARC-EP structures currently dissenting from the peace agreement vs. Border Command - Bolivarian Army (EB). See in: *Retos humanitarios 2022 Colombia. Informe de Balance Anual*, p. 3. Available at: <https://www.icrc.org/es/document/colombia-situaci%C3%B3n-humanitaria-dih-2021>.

⁴⁰In 2023, the security and defense sector budget increased by 10 % as compared to 2022 (\$ 4,474,954,311,090 more, for a total of \$46,305,236,219,141), while resources earmarked for FPA implementation decreased by 0.6 %. (-\$ 65,789,211,709), which is 23.59 % (-35,382,712,076,869) less than the security and defense sector.

The armed conflict has disproportionately affected children and adolescents.⁴¹ All (legal and illegal) armed actors pose a risk to life, liberty, and personal integrity.⁴² Rates of recruitment⁴³ and civil-military actions⁴⁴ are high. The revictimization by state officials of children victims⁴⁵ of recruitment remains in impunity.⁴⁶ Despite the request to lower the recruitment quotas imposed by the state⁴⁷ and the regulatory changes on this subject, youth from the most vulnerable classes are the principal victims of arbitrary detentions with the purpose of recruitment.

For this reason, it is urgent that the government prioritize the rights of NNA in each of its actions to achieve “Total Peace”⁴⁸ and that it accepts recommendation 121.27 “Put legal measures into practice to prevent the recruitment of NNA.”

⁴¹Following the Secretary-General's report on youth and armed conflict, it was discovered that during the reporting period, 383 serious violations were committed against 330 children and adolescents. The most frequent violation was the recruitment and use of (220) NNA, followed by homicide (118 cases), rape and other forms of sexual violence (14 cases), and kidnapping (10 cases). Taken from: United Nations. *Report of the Secretary-General on children and armed conflict in Colombia. S/2021/1022*. Paragraph 14. 8, December 2021. A majority of the actions were committed by FARC-EP dissidents, including 141 violations, followed by the ELN with 64, the AGC with 29, and Los Caparros with 24, in addition to 19 violations committed by the Colombian Military Forces, 2 by the National Police and, finally, 104 committed by unidentified armed groups. Taken from: United Nations. Report of the Secretary-General on children and armed conflict in Colombia. S/2021/1022. Paragraph 15. 8, December 2021.

⁴²The military forces carried out bombardments resulting in the death of minors, such as Operation Atai (29 August 2019), killing eight minors (Dejusticia, 2020): “On 2 March 2021, the Armed Forces bombed a FARC dissident camp in Calamar, Guaviare. Three minors died; on 16 September 2021, the Armed Forces bombed an ELN camp in Litoral de San Juan, Chocó. Four minors died” (Dejusticia, 2021). According to information reported by the Forensic Medicine Institute, there were at least eight bombardments of FARC dissident camps between 2018 and 2022, resulting in the murder of at least 30 children who had been recruited by these illegal groups (see appendix—an information request was made to Forensic Medicine for updated information). Operation Atai is one of the most emblematic cases since it was carried out in San Vicente del Caguán in Caquetá, where 20 people were killed, 12 of them children. In the military intelligence report on Operation Atai, it is evident that the army knew beforehand that there were recruited children in the camp that was bombed (See: Cuestión Pública. 18 August 2020. *Gobierno sabía que había niños en Operación Atai y aun así los bombardeó*. <https://cuestionpublica.com/exclusivocuestionpublicaydejusticia-liberacion-informes-de-inteligencia-operacion-atai/>)

⁴³In the referenced period, 220 victims were identified of recruitment and use, the most frequent violation. Taken from: United Nations. *Report of the Secretary-General on children and armed conflict in Colombia. S/2021/1022. Paragraph 14*.

⁴⁴In this period, 134 civil-military operations by the state security forces were reported. This information is the result of monitoring and evaluation actions carried out by the Observatorio de Niñez y Conflicto Armado (ONCA). It is worth noting that this is an exercise to register cases. Taken from: *Coalición contra la vinculación de niños, y jóvenes al conflicto armado en Colombia (COALICO). Data presented in the Children and Armed Conflict document. Secretary-General report*. In terms of the category of civil-military campaigns, the statistics used were collected by the observatory run by COALICO.

⁴⁵Evidence of which are the 82 early alerts issued by the Ombud's Office up to 2021, which were re-affirmed by the United Nations Secretary-General's report. Taken from the United Nations: *Report of the Secretary-General on children and armed conflict in Colombia. S/2021/1022. Paragraph 9. 8 December 2021*.

⁴⁶One of the most reprehensible events was the public statement of then Minister of Defense, Diego Molano, who indicated that recruited girls and boys were “war machines” in order to justify their murder. The statement was widely condemned by society, including by the Inter-American Commission on Human Rights (see <https://www.oas.org/pt/CIDH/jspForm/?File=/es/cidh/prensa/comunicados/2021/064.asp>). This statement motivated the Appeals Section of the Peace Tribunal of the Special Jurisdiction for Peace (JEP) to take the decision to order protection measures to protect and reestablish the rights of victims of recruitment and use (who were affected by statements made in March 2021 by ex-Minister of Defense Diego Molano) through Court Order TP-SA 1035 of 2023. The JEP ordered the government to publicly recognize recruited children and adolescents as victims, and that it incorporates actions to avoid future ignorance of their status as such in public policy and military doctrine.

⁴⁷Given that as long as high recruitment quotas are demanded by the Ministry of Defense, it will not be possible to minimize negative effects on young people's life projects.

⁴⁸Despite the progress made in terms of dialogue with armed actors who are responsible for serious International Humanitarian Law violations, with an amendment to Law 418 of 1997, there is still no legal clarity about the inclusion of children, considered one of the populations most affected by the armed conflict in the United Nations Secretary-General report on children and armed conflict. For this reason, the Colombian state must urgently prioritize actions to protect and prevent the violence faced by minors under 18 years of age so that it may become a topic of interest.

Situation of Women

Women human rights defenders, social, environmental, and community leaders continue to be victims of threats, homicides, and other kinds of violence in the context of the conflict.⁴⁹ These aggressions are often accompanied by sexual violence, torture, and other cruel and inhuman treatments. According to reports by human rights coalitions and social organizations,⁵⁰ between 24 November 2016, and 15 July 2020, 131 women leaders and human rights defenders were killed. In 2021, 173 cases of threats and 26 assassinations were recorded.⁵¹

Situation of the LGBTIQ+ Population

These individuals continue to be persecuted by actors of the armed conflict.⁵² Their participation in peacebuilding is increasingly visible, making them vulnerable to armed actors who view their activism as a threat to their power.⁵³ On the other hand, the FPA has not led to conclusive outcomes in terms of criminal liability,⁵⁴ reparation measures, or guarantees of non-repetition⁵⁵ for the crimes committed against LGBTIQ+ people.⁵⁶ In the same vein, there are no efficient protection measures for human rights defenders or for victims accredited by the JEP. The newly announced peace talks in Colombia do not include a gender approach⁵⁷ or LGBTIQ+ persons as negotiators or participants.

3. Civil and Political Rights

The recommendations on this subject have not been implemented. The systemic violation of human rights in the country, combined with the cooptation of control bodies, and a breakdown of the balance of power, had harmful effects on democracy. Concentration of power by the executive was favored heavily, bringing repeated non-compliance of judicial rulings, legal officials and control bodies that

⁴⁹Despite this context, fed by the Colombian state's weak presence in rural areas of the country, in 2022 and 2023, the budget for the defense sector was larger than it was for implementation of the Final Peace Agreement (FPA). In 2023, the budget for the security and defense sector increased by 10% as compared to 2022 (\$ 4,474,954,311,090 more, for a total of \$ 46,305,236,219,141), at the same time that the resources earmarked for FPA implementation decreased by 0.6%. (-\$ 65,789,211,709), which are 23.59% (-35,382,712,076,869) lower than those for the security and defense sector. We recommend progressively decreasing resources for security and defense and increasing the resources allotted to implementation of the FPA and other programs that guarantee dignified conditions for communities, the workplace, gender equality and social inclusion, and reconciliation.

⁵⁰Indepaz, Peasant, Ethnic, and Popular Agrarian Summit, and the Patriotic March. Special report. Registro de líderes y personas defensoras de derechos humanos asesinadas desde la firma del Acuerdo de Paz.

⁵¹Sisma Mujer. 2022. Report "Situación de las mujeres líderes y defensoras de derechos humanos en Colombia durante 2021."

⁵²See:<https://elpais.com/america-colombia/2022-08-02/el-riesgo-de-ser-gay-en-colombia.html>,
<https://news.un.org/es/story/2022/05/1508852>, <https://www.elespectador.com/judicial/sexo-asesinato-contra-hombre-de-la-comunidad-lgtbiq-en-atlantico/>

⁵³See:https://colombiadiversa.org/c-diversa/wp-content/uploads/2023/01/Boletin-personas-migrantes_12-ENERO.pdf,
https://colombiadiversa.org/c-diversa/wp-content/uploads/2022/11/Informe-derechos-humanos_Colombia-Diversa.pdf

⁵⁴See:<https://colombiadiversa.org/blogs/por-primeravez-el-crimen-de-persecucion-contra-personas-lgbt-llega-a-un-tribunal-de-justicia-transicional/> and <https://colombiadiversa.org/c-diversa/wp-content/uploads/2022/07/Comunicado-JEP.pdf>

⁵⁵<https://colombiadiversa.org/c-diversa/wp-content/uploads/2022/03/Comunicado-sobre-los-deberes-de-la-JEP-ante-la-violencia-sexual.pdf>

⁵⁶See:<https://www.dw.com/es/conflicto-armado-en-colombia-y-poblaci%C3%B3n-lgtbi-prohibido-existir/a-57558910>,
<https://www.comisiondelaverdad.co/afectaciones-la-poblacion-indigena-lgtbiq>, <https://colombiadiversa.org/c-diversa/wp-content/uploads/2022/06/Cartilla-Busqueda-LGBT-Colombia-Diversa.pdf> and
<https://web.comisiondelaverdad.co/actualidad/noticias/con-orgullo-esclarecemos-la-verdad-de-las-personas-lgtbi>

⁵⁷<https://www.ohchr.org/es/press-releases/2022/10/lgbt-persons-must-be-included-in-peace-and-security-agenda-un-expert>

lack independence, and the constant interference from the military criminal justice system. This compromised the state's capacity to investigate serious human rights violations.⁵⁸

Socio-political Violence Resulting in Death

The violation of the right to life in the country is systemic. Between 2017 and the first quarter of 2022, 3,376 cases of socio-political violence resulting in death were recorded. Of the 1,120 cases for which the alleged perpetrator is known, 36.16% are attributable to the state, 30.98% to paramilitary groups, and 26.52% to guerrillas.⁵⁹

Violence Against Women

Violence against women, especially domestic violence, continues to be one of the principal sources of risk. Femicides increased,⁶⁰ and high numbers of lethal risk assessments of partners and ex-partners⁶¹ is worrisome. Even though there was a decrease in the number of complaints and investigations into violent incidents against women and girls in 2019 and 2020, far from representing a reduction in the aggressions levels, the decrease was due to reporting and state's intervention barriers caused by the COVID-19 pandemic.

⁵⁸The Alianza Democracia en Riesgo has pointed out: "The breakdown of essential competencies and of established limits for authorities counter to democratic principles of counterbalance and distribution of powers has produced very harmful effects on democracy. Expressions of this are: -an executive heavy system providing excess protagonism to the Executive branch and excessive interference in national public life and in the designation of civil servants to control institutions, nearly exclusive initiative in national economic decision-making, and direct or indirect control of the Legislative branch through the negotiation and transaction of bureaucratic quotas and resources in exchange for the approval of government initiatives. -Reiterated non-compliance with judicial rulings that order structural reforms and public policies to guarantee fundamental rights or attention for the protection and prevention of human rights concerns. These rulings are overlooked by the executive and legislature and are viewed as the judiciary's undue interference in their affairs. -A lack of independence by judicial officials before the government caused by politicization, corruption, and the exponential growth of executive power, so much so that friendly relationships between the executive and judges of high courts and the Office of the Public Prosecutor have deepened at alarming levels. -The incapacity to investigate serious human rights violations and the constant intromission of the military criminal justice system. High levels of impunity in these cases has to do with slow processes to establish jurisdiction and an abuse of the concept of "acts of service," combined with investigation strategies that divide [lines of] questioning and evidence collection to the point of perverting processes to clarify and determine responsible parties, promoting revictimization." See: *Agenda por la Democracia y la Participación. Seis Riesgos para la Democracia, Seis Riesgos para Protegerla*. Bogota D.C., available at: <https://democraciaenriesgo.com/wp-content/uploads/2022/05/Agenda-por-la-Democracia-y-Participacion%CC%81n-V2.pdf>

⁵⁹5.89% is attributed to unidentified combatants, 0.27% to FARC-EP dissidents, and 0.18% to foreign agents. In 2017, 573 violations to [the right to] life were documented; in 2018, 648; in 2019, 522; in 2020, 744; in 2021, 555, and in the first quarter of 2022, 334. The analysis of violations of the right to life in the context of sociopolitical violence includes homicides, assassinations, and extrajudicial killings. Information systematized and analyzed by the Colombian Commission of Jurists. Source: Noche y Niebla journal, editions 56, 58, 60, 62, 64 and 65. Available at: https://www.nocheyniebla.org/?page_id=399

⁶⁰See: <https://www.noticiasrcn.com/colombia/aumentan-los-casos-de-feminicidio-en-colombia-419995>

⁶¹From January to October 2018, the INML – CF carried out 6,961 evaluations of women in danger of femicide. Similarly, in 2019, 25,785 forensic medical exams were conducted on victims of domestic violence, showing that at least one woman had been assaulted in the context of domestic violence every 35 minutes. These statistics show an annual increase in the violence practiced against women and girls. Likewise, according to data from the National Institute of Forensic Medicine, in cases of domestic violence, there has been a 9.94% increase in women victims, passing from 2,636 reported cases in January 2019 to 2,898 in the same period of 2020; in femicide cases, there has been a 125% increase in the number of women assassinated by their partner or ex-partner, passing from four reported cases in January 2019, to nine in the same period of 2020. In terms of all type of incidents of sexual violence, girls and adolescents are the population of women that most suffer sexual violence. In 2019, they represented 85.58% of assaults against women. Within this group, girls between 10 and 14 years of age are the most affected (48.43%), followed by girls between 5 and 9 years of age (25.98%).

Violence Against LGBTIQ+ Individuals

Between 2018 and 2021, 1,788 violent acts were recorded⁶² against the LGBTIQ+ population.⁶³ There has been an exponential increase in the last four years. Record violence against this population occurred in 2020.⁶⁴ The main victims were gay men and trans women.⁶⁵ There has been a reduction in quality information from public entities,⁶⁶ which has prevented an analysis of patterns of violence. Finally, there are high levels of impunity⁶⁷ in these cases,⁶⁸ and the state continually fails to consider security policies to protect LGBTIQ+ people.⁶⁹

Extrajudicial Killings

The recommendations from the last UPR asking the state to implement measures against extrajudicial killings and that such cases be prosecuted remained unattended during the four years of the Iván Duque administration.⁷⁰ On the contrary, people committed to investigating the military

⁶²Colombia Diversa, Human Rights Reports. 2017-2021. In 2018, 323 victims were recorded: 109 were assassinated, 127 threatened, and 87 were victims of police violence. In 2019, 322 victims were recorded: 106 were assassinated, 107 threatened, and 109 were victims of police violence. In 2020, 738 victims were recorded: 226 were assassinated, 337 threatened, and 175 were victims of police violence. (a) See: Colombia Diversa, Report on Violence Against LGBT People in Colombia in 2021: "La violencia no nos impide amar." Available at: https://colombiadiversa.org/c-diversa/wp-content/uploads/2022/11/Informe-derechos-humanos_Colombia-Diversa.pdf, published in 2022; (b) See: Colombia Diversa, Report on Violence Against LGBT People in Colombia in 2020: "Nada que celebrar." Available at: https://colombiadiversa.org/c-diversa/wp-content/uploads/2021/06/Nada_que_celebrar_cifras-asesinatos_personas -LGBT_2020.pdf, published in 2021; (c) See: Colombia Diversa, Report on Violence Against LGBT People in 2019: "Más que cifras." Available at: <https://colombiadiversa.org/c-diversa/wp-content/uploads/2021/03/Mas-Que-Cifras-2019.pdf>, published in 2020; (d) See: Colombia Diversa, Report on Violence Against LGBT People in 2018: "Aunque Intenten Borrarnos." Available at: <https://colombiadiversa.org/c-diversa/wp-content/uploads/2020/04/publicaci%C3%B3n-7- -Informe-de-violaciones-a-los-derechos-humanos-de-personas-LGBT-en-Colombia-en-2018.pdf>, published in 2019.

⁶³Of this violence, 668 were threatened, 646 assassinated, and 474 were victims of police violence. 2022 did not lag behind: between January and July, 53 cases of violence have been registered. This statistic comes from information collected by Colombia Diversa. This year's report will be published in June 2023. The registered information includes the following data: 41 homicides, 6 threats, and 6 victims of police violence. The main victims are trans women (24), gay men (20), lesbian women (4), one trans man, and one bisexual man. Additionally, three people were registered for whom their SOGI was unknown.

⁶⁴Op. Cit. *Nada que celebrar* (2021)

⁶⁵These records are not an exact reflection of violence against the LGBTIQ population as there are multifaceted barriers, underreporting, and problematic registry that prevent an understanding of the violence faced by lesbians and bisexual women, as well as by bisexual men and trans people. On the other hand, we have found that gay men tend to be attacked with knives and in their homes, while trans women tend to be attacked with firearms in public spaces or in areas of sex work. Furthermore, trans women are the main victims of police violence. The territories with the highest registries of this type of violence are Antioquia, Valle de Cauca, and Bogotá D.C. The amount of violence in these departments varies year to year, but these departments have remained the three places with the highest registries of violence against the LGBTIQ+ population. This high registry does not mean that these are the departments with the most violence, but rather that there is more reporting in these departments. This could be because of the high number of total inhabitants in the departments, and/or because these three departments have good documentation and registry practices for violence against the LGBTIQ+ population.

⁶⁶Op. Cit. *Aunque intenten borrarnos* and *Más que cifras*. Since 2018, Colombia Diversa has been warning about a lack of quality information from state institutions. This lack of quality information worsened in 2021. Even though institutions provided some information, they did not have registries of victims, perpetrators, incidents, and alleged motives. This impedes the possibility of analyzing patterns of violence and of recommending ways to mitigate this violence through public policy for the prevention, protection, and access to justice for the LGBTIQ+ population.

⁶⁷Op. Cit. Human Rights Reports from Colombia Diversa. The cases are related to homicide, threats, and police violence. 90% of cases are in the investigation phase and, of these, 47% are inactive.

⁶⁸These statistics are based on the last report on the LGBT population's access to justice, which found that 3,748 LGBT individuals were victims of homicides, threats, and police violence between January 2020 and July 2022. This figure was provided in response to an information request from the Office of the Prosecutor General.

⁶⁹For example, 2020 saw the lowest general number of homicides nationally, but nonetheless it was a record year of violence for the LGBTIQ+ population. See: El Espectador, Colombia alcanzó en 2020 la tasa de homicidios más baja en 46 años. 17 December 2020. See: Op. Cit. *Nada que celebrar*. 2021 registered the highest national rate of homicide in the last seven years. Even still, violence against the LGBT population remained similar to that of 2020. This highlights the need for security and coexistence policies to take into account these figures, as well as patterns of violence, so that they might be incorporated into government policy.

⁷⁰The process of filtering the military under Operation Bastón, in which an intense counter intelligence process identified 16 generals, 128 officials, and 122 sub-officials involved in alliances with organized crime, false positives, paramilitaries, and serious cases of corruption, see: Semana. Operation Bastón, June 2020. <https://especiales.semana.com/operacion-baston-los-secretos-de-las-redes-de-corrupcion-en-el-ejercito-nacional/index.html>

personnel linked to these practices were removed from military leadership, while military personnel investigated for this crime were appointed to top ranks.⁷¹

The new administration announced important measures to put an end to this practice, like suspending bombardments where minors might be present, and changes to the operational evaluation of military personnel to award best practices in the protection of civilian life, rather than casualties.

Enforced Disappearance

Enforced disappearances⁷² have increased in Colombia since the last UPR.⁷³ During the repression of the mass 2021 protests, various cases of disappeared persons were denounced.⁷⁴ Twenty-seven signatories of the peace agreement have been victim to this crime.⁷⁵ Even though the FPA created the UBPD, nearly five years after its creation, it has only delivered 155 disappeared persons to their families.⁷⁶ Therefore actions have been undertaken⁷⁷ to improve coordination between responsible agencies, to develop clear competencies and channels for interaction, and intervention protocols. It is important to highlight that the Colombian state ratified a couple of months ago the competence of the United Nations Committee on Enforced Disappearances to investigate individual communications of victims of enforced disappearance.

⁷¹The case of army commander General Nicasio Martínez was cause for special concern given his prior role as Chief of Staff in the 10th Armor Brigade (Cesar and Guajira departments) between October 2004 and January 2006, a period when troops under his command committed at least 23 alleged extrajudicial killings. For more in-depth information, see: Human Rights Watch (27 February 2019). Colombia: New Army Commanders Tied to "False Positives." Recovered from <https://www.hrw.org/es/news/2019/02/27/colombia-nuevos-comandantes-del-ejercito-estarian-vinculados-con-falsos-positivos> and Pares: *El general de cuatro soles señalado de graves crímenes*. 5 June 2019. <https://www.pares.com.co/post/el-general-de-cuatro-soles-se%C3%B1alado-de-graves-cr%C3%ADmenes>. Another case was the appointment of General Eduardo Zapateiro as army commander. He was implicated in cases of enforced disappearance and extrajudicial killings. See: AA. 28 December 2019. Los hechos que enredan al nuevo comandante del Ejército colombiano <https://www.aa.com.tr/es/mundo/los-hechos-que-enredan-al-nuevo-comandante-del-ejercito-colombiano/1686507>

⁷²According to the Truth Commission's report, 121,768 people were disappeared in the context of the armed conflict between 1985 and 2016 alone. If underreporting is taken into account, the figure could be around 210,000 victims. See: Truth Commission. *Informe Final. Hallazgos y Recomendaciones*. p. 156. <https://www.comisiondelaverdad.co/hallazgos-y-recomendaciones>

⁷³At the end of 2021, the International Committee of the Red Cross documented that cases of enforced disappearance have been increasing since the signing of the Peace Agreement, with 11 cases in 2016, 128 in 2017, 134 in 2018, 167 in 2019, 164 in 2020, and 168 in 2021. See: International Committee of the Red Cross. Humanitarian Challenges 2022. Colombia. <https://www.icrc.org/en/document/colombia-humanitarian-challenges-2022-ihl> p. 6.

⁷⁴El Espectador, 8 June 2022. Impunidad, el resumen de las investigaciones del paro nacional de 2021. <https://www.elespectador.com/bogota/impunidad-el-resumen-de-las-investigaciones-del-paro-nacional-de-2021/>

⁷⁵UN Security Council. United Nations Verification Mission in Colombia. *Secretary-General Report*. 27 September 2022- p. 11 para. 58, Doc. S/2022/715

⁷⁶According to the United Nations Secretary-General verification report on implementation of the FPA. See: UN Security Council. United Nations Verification Mission in Colombia. *Secretary-General Report*. 27 September 2022. p. 5 para. 21, Doc. S/2022/715

⁷⁷The National Inspector General warned about the possible occurrence of an Unconstitutional State of Affairs due to a lack of fulfillment of the state's obligations to carry out searches [for disappeared persons] and ordered that the JEP carry out due diligence to fulfill search commitments with the involvement of national institutions with obligations to the Search Unit for the search, recovery, and dignified return of persons reported missing and unaccounted for. See: Procuraduría General de la Nación. *Procuraduría advierte posible estado de cosas inconstitucional por incumplimientos en la búsqueda de personas desaparecidas*. Bulletin 735, 8 December 2022. <https://www.procuraduria.gov.co/Pages/procuraduria-advierte-posible-estado-de-cosas-inconstitucional-por-incumplimientos-en-busqueda-personas-desaparecidas.aspx>

Torture

Colombia has not complied with the recommendations made on torture.⁷⁸ Between 2017 and 2022, 391 cases of torture were documented, at least 31 of them being women and four NNA. In cases where the alleged perpetrator is known, 58% were attributed to the state, 15.6% to paramilitary groups, and 5.6% to guerrillas.⁷⁹

Persons Deprived of Liberty

Colombia has not fulfilled the recommendations made on PDL.⁸⁰ During the pandemic, the prolonged isolation of PDL became CIDT⁸¹ and in some cases, torture.⁸² Within the context of the pandemic, PDL feared for their lives⁸³ and protested in numerous facilities. INPEC responded with a disproportionate use of force, causing the death of 24 PDL,⁸⁴ while 173 PDL were wounded in 2020.⁸⁵

Overcrowded prisons caused transfers to TDC.⁸⁶ This caused even more serious violations than those present in ERON.⁸⁷ The health of PDL has been affected by a lack of access to potable water,⁸⁸ infrastructure problems, and precarious nutrition.⁸⁹ Criminal justice policy continues to be characterized by indiscriminate punitive action, devoid of an empirical foundation. It also lacks differential approaches. Protective transfers are often used for unjust deprivations of liberty.⁹⁰ The majority of CD do not separate PDL by legal status.

⁷⁸Colombia has not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Recommendations 121.1 - 121.2 - 121.3 - 121.4 - 121.5 - 121.6 UPR 2018). Nor has it stated its agreement with Article 22 of this Convention (Recommendation 23D, UPR 2009).

⁷⁹In 2017, 53 tortures were documented; in 2018, 66 were documented; in 2019, 85; in 2020, 80; in 2021, 82, and in the first quarter of 2022, 25. Information systematized and analyzed by the Colombian Commission of Jurists. Source: Noche y Niebla journal, editions 56, 58, 60, 62, 64, and 65. Available at: https://www.nocheyniebla.org/?page_id=399.

⁸⁰Colombia did not adopt effective measures to reduce prison crowding; for example, it has not established alternative criminal procedures to control overcrowding (recommendations 120.29 - 120.27- 121.19, UPR 2018). Nor where detention conditions improved (Recommendation 120.28, UPR 2018).

⁸¹Given that it usually takes place in especially deteriorated parts of a prison or includes the confinement of entire blocks to their cells without breaks, recreation, work, or study activities, for months at a time. This causes sensory deprivation as they are not allowed to see the sun or have contact with the outside world.

⁸²For the intention of causing harm or suffering with a specific objective; for example, punishment. During interviews conducted by the CSPP in San Isidro prison in Popayán, it was documented that inmates had spent nearly three months locked in their cells as punishment for initiating strikes in 2020 that requested improved services to confront Covid-19 in prison. The measure was taken with the argument of preventing the incidence of contagion and to lend it the appearance of legality. Prisoner interviews on 26 November 2021 in the San Isidro high- and mid- level security penitentiary facility (EPAMSCAS) in Popayán. CSPP. 2022. Report: *Tortura y malos tratos en las cárceles colombianas*.

⁸³This sensation was motivated by a lack of information about the risk level to which they were exposed and the state's historic abandonment of this population, as shown by the nearly nine-year duration of the Unconstitutional State of Affairs. The unjustified delay of the mentioned protocol and the fact that the actions of different entities and regulation concerning their rights were not agreed upon or shared with the incarcerated population, triggering high levels of concern and stress among these individuals.

⁸⁴Of the 24 deceased, 23 died from firearm shots and one from a free fall.

⁸⁵INPEC. Response to Information Request 2022EE0060191. 12 April 2022.

⁸⁶National Police. Response Court Order 1629 of 2022. By 16 November 2022, 19,535 detainees were found in these places, and the percentage of overcrowding was 297% in police stations, 192% in sub-stations, 380% in the CAI, and 210% in URI. Furthermore, 28 TDC presented overcrowding of more than 1000%. Data analyzed by CSPP. See in bit.ly/3Bp50a2.

⁸⁷In the ERON, overcrowding was found to be 121% in December 2022, according to INPEC figures. See in <https://bit.ly/3UX7F12>

⁸⁸As concerns potable water, in various detention centers, structural supply failures have not been resolved. Furthermore, rationing is widespread in nearly all second- and third- generation facilities, at levels that affect the vital minimum and fall below the minimums stated by the Constitutional Court.

⁸⁹Tenth Monitoring Report of the CSST-388 of 2013 (2022). See in <https://bit.ly/3iZvPLp>

⁹⁰Law 2197 of 2022 eliminated the requirement that explicitly required the transfer to be the only available recourse to guarantee the person's protection, instead demanding that a new "police mediation" procedure be exhausted. It further presents some ambiguous causes; for example, that the person "apparently" be under the influence of psychoactive substances, or that they "outwardly express threatening or aggressive behaviors," which could promote the arbitrary and punitive use of a protective transfer.

Right to Conscientious Objection

This right continues to be violated in Colombia. The authority that approves conscientious objector requests lacks impartiality and independence.⁹¹ Young men are tricked into attending military facilities where soldiers force them to undertake military service in an irregular manner.⁹² Clear and sufficient information is not provided about how a young person can become a conscientious objector.⁹³ People who request conscientious objector status experience high levels of vulnerability. The military offers permanent incentives to soldiers who enlist young men for military service. The Attorney General's Office does not know what role it should play in this situation and does not provide suitable accompaniment to young men who wish to conscientiously object.⁹⁴

Illegal Use of State Intelligence

The illegal use of state intelligence continues in Colombia, endangering the privacy of members of left-wing political parties, journalists, Supreme Court justices, and human rights defenders.⁹⁵ The state continues to fail to comply with its commitment to the purging of intelligence archives.⁹⁶ In addition, the state continues to use sophisticated and invasive espionage tools and computer systems for the mass storage of citizen data without controls or guarantees to prevent undue use in intelligence activities.⁹⁷ Authorities monitor and intercept individual audio and data communications

⁹¹The Interdisciplinary Commission that rules on requests for conscientious objector status consists of four Army officials: a commander from the relevant Military District; a doctor from the Military District; a psychologist from the Military District; and the legal advisor from the Military District. This means that there is no impartiality or neutrality when the Commission analyzes requests for conscientious objector status. We identified that the ethical or philosophical arguments used to analyze these cases were not always relevant as the only valid reason for conscious objection cited by the Commission is a young person's deeply held religious beliefs. This violates the rights of conscientious objectors whose motives may include environmental, political, and ethical reasons, among others.

⁹²The Army holds Incorporation Days when soldiers walk the streets and provide information to young people about compulsory military service. It has been reported that the Army does not inform young people about their right to conscientious objection during these Incorporation Days. Once a young person has received the order to begin military service, they are required to start the following day, which means that they do not have sufficient time to collect all of the documents required to request conscientious objector status. They are told that if they do not appear at the Military District the next day then they will be breaking the law. Soldiers do not tell young people that they can request conscientious objector status online and they do not respect the period of 10 working days that young people have to gather the required documentation for the interdisciplinary hearing. Sometimes the Army withholds documents from the young people, such as identity cards, and tricks them into attending the Military District where the soldiers presume that they have come to sign up for military service. Evidence of these situations come from multiple cases identified by JUSTAPAZ yet fear of the military's power means that young people do not report these irregularities. See: <https://www.ohchr.org/sites/default/files/2022-05/justapaz-HRC50.pdf>

⁹³This situation has led to a substantial decrease in the number of requests for conscientious objector status over the last four years. This is a very small amount compared to the number of young people who undertake compulsory military service. https://drive.google.com/file/d/1cphtGrr_cnHzx0rgztRztni33QFz0dgT/view?usp=share_link

⁹⁴See: https://drive.google.com/file/d/1cMiTV9K7ovVqxCgpXOT62-rgv6BVW0y/view?usp=share_link

⁹⁵In January 2020, another scandal involving the Armed Forces was reported in a series of articles in Semana magazine titled "Chuzadas sin cuartel" and "Las carpetas secretas". This scandal involved members of the Armed Forces accused of carrying out illegal interceptions and surveillance. Commission for the Clarification of the Truth (2022). Case "Evolución, funcionamiento y problemáticas de la inteligencia civil y militar en Colombia (1954-2020)", p. 183. Available at: <https://www.comisiondelaverdad.co/caso-evolucion-funcionamiento-y-problematicas-de-la-inteligencia-civil-y-militar-en-colombia-1954> Inter-American Commission on Human Rights (2021). Annual Report of the Office of the Special Rapporteur for Freedom of Expression, para. 407, OEA/Ser.L/V/II Doc. 28. Available at: <http://www.oas.org/es/cidh/docs/anual/2020/capitulos/rele.PDF>

⁹⁶One of the provisions contemplated in Law 1621 of 2013 on intelligence and counterintelligence was the creation of an Advisory Commission to purge intelligence and counterintelligence data and files. The Advisory Commission has the mission of formulating recommendations and criteria for the permanence, removal, and final destination of intelligence and counterintelligence data and files (art. 30). The Commission approved its report by consensus and formally submitted it to the President of the Republic on 23 July 2016. To date there has been no progress on the implementation of the recommendations made by the Commission in this report.

⁹⁷For example, the intelligence work reported in Semana magazine in 2020 involved the use of a complex technological platform called Invisible Man, which was purchased by the Military Intelligence Support Command (CAIMI) in 2019. It allows a user to access digital information stored on any computer, cell phone, or other electronic device. Commission for the Clarification of the Truth (2022). Case "Evolución, funcionamiento y problemáticas de la inteligencia civil y militar en Colombia (1954-2020)", p. 184. Available at: <https://www.comisiondelaverdad.co/caso-evolucion-funcionamiento-y-problematicas-de-la-inteligencia-civil-y-militar-en-colombia-1954>

and have direct access to “mass internet surveillance capabilities”⁹⁸ that capture people’s electronic communications and can hijack individual devices.⁹⁹

Electoral Participation

Political participation is threatened by the Final Peace Agreement’s lack of implementation and increasing military actions conducted in the context of the armed conflict. Violence committed during electoral periods has increased and the outlook for the 2023 elections is not encouraging.¹⁰⁰ Women’s political participation in the country continues to be poor due to a lack of participation guarantees from the state. Women face difficulties to access voting booths in rural areas, in addition to their lack of political experience and relevant training (Sisma Mujer, 2022).¹⁰¹ Female political candidates face differential violence that includes: sexual violence, sexual harassment, verbal aggressions, and threats with discriminatory messages about their role in the home, their families and their physical appearance (MOE, 2022). These aggressions act as “a deterrent for other women, discouraging their participation in these spaces” (WILPF, 2022). There is a need to adopt gender-sensitive strategies as part of political and electoral reforms. The Patriotic Union (UP) political party¹⁰² has lacked effective guarantees¹⁰³ to ensure their participation in elections since the restoration of its status as a legal political party in 2014. Despite this situation, candidates from the UP ran in the national elections in 2018¹⁰⁴ and 2022 and the 2019 regional elections.

⁹⁸The Single Platform for Monitoring and Analysis (PUMA) is a telephone and internet monitoring system connected directly to a service providers’ network infrastructure. PUMA copies large amounts of data and sends it directly to a monitoring center (Fundación Karisma, Response to call for contributions to a report on the right to privacy in the digital age by the UN High Commissioner for Human Rights (2018) <https://www.ohchr.org/Documents/Issues/DigitalAge/ReportPrivacyinDigitalAge/Karisma.pdf>). KARISMA FOUNDATION 11 (2021). “Where is my data?”. Available at: <https://web.karisma.org.co/donde-estan-misdatos-2021/>

⁹⁹DIGITAL RIGHTS LAC (2015). “En Colombia, el PUMA no es como lo pintan”. Available at: <https://digitalrightslac.derechosdigitales.org/es/en-colombia-el-puma-no-es-como-lo-pintan/>

¹⁰⁰The Colombian Commission of Jurists and the Misión de Observación Electoral identified an increase in violence during the 2022 national elections compared to those held in 2018. They also observed that if the various recommendations made to reduce this violence are not adopted, then levels of violence will remain the same or worsen during the 2023 local and regional elections. See: Democracia en el Punto de Mira, published in: https://www.coljuristas.org/centro_de_documentacion/documento.php?id_doc=664

¹⁰¹2022 was the third most violent year for women political, social and community leaders since 2017, with a total of 90 reported aggressions (MOE, 2022). This represents a 60.7% increase compared to 2018. Of the 90 aggressions, 55 (61.1%) were committed against female political leaders involved in electoral campaigns (p.8).

¹⁰²The Unión Patriótica (UP) emerged as a political party almost 30 years ago as a result of a peace agreement for a negotiated solution to the internal armed conflict. On 28 March 1984, the national government led by Belisario Betancur signed the La Uribe (Meta) Agreement with the FARC-EP, which established a ceasefire and truce and created the possibility of a new political movement. On 9 March 1986, the UP successfully elected 15 of its candidates to the Senate and House of Representatives, along with the election of 18 deputies, 335 councilors, and 23 municipal mayors. Following this initial electoral success, an extermination plan was consolidated in which 2 presidential candidates, 9 congressional representatives, 70 councilors, and dozens of deputies, mayors, leaders, militants and sympathizers were assassinated. This extermination plan had a total of 6,200 victims. In November 2002, the National Electoral Council revoked the UP’s legal status as a political party on the grounds that in the previous national elections it had failed to win a single seat in Congress. The party also received less than 50,000 votes nationally. In June 2013, the Council of State recognized the UP’s lack of electoral support as a direct consequence of the persecution and stigmatization of UP leaders, militants and sympathizers and restored its legal status. See: <https://corporacionreiniciar.org/caso-up/historia-up/>

¹⁰³When speaking of effective guarantees for electoral participation, this refers to equal access to media coverage, a state-led campaign focusing on destigmatization, and state campaign financing.

¹⁰⁴As part of the Decentes Coalition formed by a number of left-wing political parties, the UP participated in the 2018 legislative and presidential elections and returned to Congress after more than 20 years through the election of its president Aida Avella to the Senate. This ensured permanence for the party’s legal status, which was only been guaranteed by the Council of State until the 2018 elections. The UP has continued the strategy of participating in coalitions, such as the Historical Pact, to guarantee the party’s survival. Commission for the Clarification of the Truth (2022). Case “La esperanza acorralada. El genocidio Contra la Unión Patriótica”. Available at: <https://www.comisiondelaverdad.co/caso-union-patriotica>

4. Equality and Non-discrimination

LGBTIQ+ Population

The national LGBTIQ+ public policy¹⁰⁵ has had a low level of implementation with major shortcomings identified in its action plan.¹⁰⁶ This policy is essential to fulfill the commitments¹⁰⁷ made by the state in the previous UPR.¹⁰⁸ There are no robust action plans to implement the court orders from over 240 cases.¹⁰⁹ Access barriers for transgender people persist in healthcare, an issue that has been recognized by the Constitutional Court.¹¹⁰

Indigenous Peoples

Indigenous communities continue to have their rights violated despite recommendations, agreements, resolutions, public policies, and safeguard plans. Their rights to access land, their multinationalism, and their knowledge, uses, and customs are not recognized. Colombia is facing the extinction of many ancestral peoples. Development plans that prioritize monocultures, industrial cattle ranching, and mining and energy exploitation promote the violation and ignorance of Indigenous communities' manifold ways of inhabiting their territories and their care mechanisms.

Afro-descendant Peoples

The recommendations made in the UPR 2018 on equality and non-discrimination have not been adopted. Although Colombia has made progress with issuing regulations for this population,¹¹¹

¹⁰⁵Established by Decree 762 of 2018.

¹⁰⁶Ombud's Office of Colombia. Human Rights Report on LGBTI-SOGI. 2021: Una Radiografia del Prejuicio 2021, 2021. See pp. 21 - 25. "Following the occurrence of these actions and providing continuity to our work monitoring the implementation of this public policy, the Ombud's Office Delegate for Women's Rights and Gender Issues has corresponded with the Ministry through official letters on several occasions and in different institutional scenarios. To date, no information has been shared about compliance with or the status of each of these activities. We expressed our concerns in several documents in 2018 and 2019 on the Ministry of the Interior's lack of compliance with two essential obligations that are pillars of this important public policy: issuing the Action Plan and the conformation of the Technical Group to implement this policy. According to the relevant decree, these activities should have been carried out by November 2018. In addition, it was noted that the tools created by the Ministry of the Interior during the 2012 to 2017 period were not taken into account in the creation of the decree nor to implement the Action Plan, despite containing valuable contributions." Available at: <https://repositorio.defensoria.gov.co/bitstream/handle/20.500.13061/371/Informe%20SIGD%20ver1.pdf?sequence=1&isAllowed=y>

¹⁰⁷It is also necessary to comply with current regulations on this area.

¹⁰⁸In the previous Universal Periodic Review, the Government of Colombia accepted the following recommendations. From the Czech Republic: "Take further steps and effectively implement existing measures aimed at protecting lesbian, gay, bisexual, transgender, and intersex persons from discrimination and violence." From Iceland: "Continue and step-up efforts to combat stereotypes regarding, and prejudice against, lesbian, gay, bisexual, transgender, and intersex persons." From Mexico: "Establish mechanisms to obtain disaggregated data on ethnicity, disability, gender, sexual orientation, and gender identity, allowing for the design of effective public policies that are non-discriminatory and meet the needs of marginalized population groups."

¹⁰⁹The Constitutional Court has issued at least 193 court rulings on the rights of the LGBTIQ+ population in Colombia. The Supreme Court of Justice has issued at least 33 rulings related to the LGBTIQ+ population. The Council of State has issued 23 rulings on the LGBTIQ+ population.

¹¹⁰The Constitutional Court has issued the following rulings on access to healthcare for transgender persons: (i) T-771-13, (ii) T-552-13, (iii) T-622-14, (iv) T-406-19, (v) T-263-20, (vi) T-236-20, (vii) T-421-20, (viii) T-231-21, (ix) C-055-22, (x) T-218-22.

See also. op. cit. *Cit. Ombud's Office. Human Rights Report on the LGBTI-SOGI population 2021.* "In terms of cases of violence in the health sector, the report identified barriers to access medical services in hospitals, denial and excessive delays in appointments that are necessary to reaffirm a gender identity, lack of timely care for people living with HIV, and health complications arising from the application of biopolymers. This means that some members of this population resort to artisanal treatments that put their health at risk."

¹¹¹Colombia passed Law 1482 of 2011, which amended the Criminal Code and established other provisions. This law aims to protect the rights of a person, group of persons, community, or people that are violated through acts of racism or discrimination. The law also seeks to guarantee the fundamental constitutional principles of pluralism (Article 1), ethnic diversity (Article 7), and multiculturalism (Article 70) that are enshrined in the National Constitution. Colombia's internal regulatory framework also ensures the integration of the following international conventions into the country's legal system: the International Convention on the Elimination of All Forms of Racial

concrete political actions are required that go beyond sanctions and recognition of local cultures. These actions must guarantee the social and economic rights of the Afro-descendant population, which has the worst indicators¹¹² in these areas.¹¹³ Colombia is very far from achieving a real transformation that would ensure equality and racial justice for this population.

Persons with Disabilities

Despite progress in the legal recognition of the rights of persons with disabilities (PWD), there are still several obstacles that impede an effective guarantee of these rights.¹¹⁴ The Anti-discrimination Law does not consider the denial of a *reasonable accommodation* for this population as a form of discrimination and no concrete actions have been taken to guarantee access to *reasonable accommodation* for PWD. There are no mechanisms to register complaints on the denial of reasonable accommodation.¹¹⁵ Access to the right to healthcare and education for children and adolescents with disabilities is precarious. There is also an urgent need to ratify the OP to the CAT and the OP to the CRPD.¹¹⁶

Women

The precariousness of women's ways of life in Colombia continues. In addition to the work overload generated by the unpaid care work they carry out, women still do not have equal access to the labor market.¹¹⁷ Women working in highly feminized economic sectors experience labor precariousness in a different and disproportionate way, which has worsened following the COVID-19 pandemic. In these sectors there are no adequate or effective mechanisms for women to report rights violations, nor do they have access to redress or alternative measures that would address their lack of access to these rights.¹¹⁸

Discrimination through Law 22 of 1981; the Convention on the Elimination of All Forms of Discrimination against Women, which was adopted through Law 51 of 1981; and the Convention on the Rights of Persons with Disabilities, Law 1346 of 2009. These national laws prohibit discrimination against these population groups.

¹¹²Racism, poverty, hunger, precarious or scarce employment, access barriers, educational quality and permanence, violence, fragile health systems, the migratory crisis, ecocide, the progressive loss of territories, and the weakening of economies and local community processes are some of the factors that cause poverty. Added to this panorama is the armed conflict, which has victimized and reinforced patterns of violence on a territorial scale, generating internal migratory processes and the uprooting of populations. These aspects must be considered using an intersectional perspective that highlights structural inequalities and the multiple ways in which ethnic peoples are oppressed. This is particularly the case for Afro-descendant peoples, who are still struggling for a recognition of their right to territory.

¹¹³The macroeconomic report for Colombia prepared by the Economic Commission for Latin America and the Caribbean (ECLAC, 2020) confirms that it is not possible to overcome the significant challenges in the region without taking decisive actions that recognize and guarantee the rights of Afro-descendant peoples. There are concerns about the unmet needs of people belonging to ethnic groups, which form part of the central dynamics of development. The full text of this report is available at: https://repositorio.cepal.org/bitstream/handle/11362/46070/96/EE2020_Colombia_es.pdf.

¹¹⁴Some advances in recognition have occurred. This includes Decree 1421 of 2017 and Law 1996 of 2019, as well as rulings related to constitutional rights and responses to writs for the protection of these rights (*tutelas*), which have contributed to the implementation of these regulations.

¹¹⁵Concerns highlighted by the Committee on the Rights of Persons with Disabilities in August 2016. Concluding Observations of the Committee on the Rights of Persons with Disabilities, para.15, CRPD/C/COL/CO/CO/1, 31 August 2016.

¹¹⁶Guatemala recommended that the Colombian state "ratify the Optional Protocol to the Convention against Torture and the Optional Protocol to the Convention on the Rights of Persons with Disabilities." Recommendations were also made by the CRPD Committee in 2016, para. 5 and 43.

¹¹⁷Sisma Mujer. La autonomía económica de las mujeres como una apuesta feminista para la superación de las violencias basadas en género. Available at: <https://www.sismamujer.org/wp-content/uploads/2022/03/Hallazgos-Autonomi%C3%A1-Econo%C3%A1mica.pdf>

¹¹⁸Sisma Mujer. Mujeres, derechos laborales y emergencia sanitaria. Available at: <https://www.sismamujer.org/wp-content/uploads/2021/08/MUJERES-DERECHOS-LABORALES-Y-EMERGENCIA-SANITARIA.docx.pdf>

5. Rights Violations in the Context of Protests

Since 2018, social mobilizations have increased in the country¹¹⁹ and peaked with the 2021 National Strike.¹²⁰ The state responded to this legitimate use of freedom of expression and political protest and participation¹²¹ with stigmatization and a disproportionate use of force by the ESMAD police unit, causing death and serious injuries. A systematic practice was identified that involved ESMAD officers firing weapons with supposed reduced lethality at protestors' faces or bodies, inflicting serious injuries such as eye loss. Protestors were also victims of torture, sexual violence, and arbitrary detentions, among other aggressions.

Impunity

Investigations by the Attorney General's Office into crimes committed by security forces during protests have been inadequate and non-effective¹²² and disciplinary investigations have not been effective either. These have been shelved because the state security agents who fired weapons that caused injuries to protestors have not been identified¹²³.

Political Persecution

Persons deprived of liberty for their alleged participation in isolated incidents that occurred during the social protests have been charged with disproportionate offenses.¹²⁴ This prevents an application of restorative justice mechanisms, such as the principle of opportunity and the use of mechanisms such as pardons and amnesties, which would conclude the sanctions and criminal proceedings against protestors.

¹¹⁹According to the CINEP in its report titled “¿Hacia la paz Total? Perspectivas de una nueva Colombia” (2022), the social protests had different demands: in 2018 protestors demanded the financing of public education; the 2019 protests were against the regressive economic policies introduced by Iván Duque's government; the 2020 protests were against the police brutality of ESMAD following the murder of Javier Ordoñez in Bogotá; and in 2021, protestors demanded the elimination of proposed tax reforms, measures to address extreme poverty and the dismantling of the ESMAD riot police unit, among other issues.(p.17)

¹²⁰The country experienced constant protests that began on 28 April 2021 and continued for two uninterrupted months. After July of that year, protests became more focused and young people were the main participants. As highlighted in the OHCHR Colombia report (2021), the causes of the social protests were focused on the country's enormous social inequality: "The National Strike that began on April 28 occurred in a context of growing social and economic inequality in Colombia. Inequality in the enjoyment of economic, social and cultural rights (ESCR) has been a structural problem in the country evidenced by human rights protection mechanisms for many years. For example, in 1996 and in 2017, the ESCR Committee identified the serious inequalities that exist in Colombian society, such as huge differences in the distribution of national wealth including land ownership, as some of the factors that have hindered the implementation of the Covenant" (p.6)

¹²¹According to the campaign titled "Defender la Libertad un Asunto de Todas" (2021): "87 homicides of civilians were recorded and 1,905 people were injured by the disproportionate actions of the National Police, ESMAD and unidentified armed civilians. Aggressions against human rights defenders increased. A total of 833 women were victims of police violence and 3,365 people were detained, primarily as a result of arbitrary procedures."

¹²²In cases in which police actions caused injuries to demonstrators, investigations have been carried out in relation to the crime of abuse of authority. This approach ignores the systematicity of this practice by police officers, which is more related to the crime of attempted homicide.

¹²³The lack of rigor in investigations carried out by public officials from the Attorney General's Office is an issue. These public officials do not dare to investigate police officers who were responsible for overseeing the actions of the anti-riot squads and were constantly monitoring responses to these social protests by the ESMAD unit.

¹²⁴These include conspiracy to commit a crime, terrorism, carrying explosives, damage to the property of others and violence against public officials.

Stigmatization

Different state authorities continue to link participation in social protests with organized violence, which delegitimizes their political demands. In order to discourage social protests, the state power to criminalize was used to persecute and prosecute organizers, promoters, and participants.¹²⁵ Police conducted illegal arrests during protests.¹²⁶ The Attorney General's Office initiated investigations against hundreds of youth accused of belonging to organized criminal groups¹²⁷ and were charged with numerous crimes, including terrorism. A new citizen security law was approved, which continues to criminalize citizens' right to protest in Colombia.¹²⁸

6. Human Rights Defenders

Colombia continues to fail to comply with numerous recommendations made in previous UPR.¹²⁹ Attacks on human rights defenders (HRDs) and social leaders have continued to increase,¹³⁰ with at

¹²⁵Days before the 2019 National Strike protests began, the Prosecutor General's Office and police raided alternative media outlets without any justification. Police made a large number of on-site arrests at demonstrations during the different protest cycles in November 2019, September 2020, and May 2021. In Ruling STC-7641, issued on 22 September 2020, the Supreme Court of Justice recognized the existence of a systematic, arbitrary, and violent intervention by state security forces during the protests. The ruling also stated that a criminalization of the right to protest represents serious and unjustified discouragement. After its verification mission in June 2021, the IACHR recommended limiting prosecutions in protest scenarios as much as possible.

¹²⁶The Ministry of Defense reported 1,408 on-site arrests during the 2021 National Strike. Of these, very few cases led to a criminal investigation.

¹²⁷Law 1908 of 2018 was applied to the criminal proceedings undertaken by the Prosecutor General's Office against protesters who participated in the 2021 National Strike. This law is designed for the criminal prosecution of members of organized armed groups and organized criminal structures with a focus on the country's different forms of organized violence. This law allows for unreasonably long sentences and a person can be detained under this law for over three (3) years without going to trial. Meaning people can be punished without being convicted of a crime.

¹²⁸Law 2197 was issued in 2021, which reformed the Criminal, Criminal Procedure, and Police Codes and established rules regarding forfeiture of ownership and penitentiary establishments. In accordance with the previous Citizen Security Law (Law 1453 of 2011), this law created different criminal offenses that penalized actions traditionally carried out by social movements including: Trespassing on private property, criminalizing the temporary occupation of rural properties; and obstruction of public functions, criminalizing any questioning of the exercising of authority by public officials. Questioning the arbitrary use of force by police officers was a focus of civil society verification commissions during the protests.

¹²⁹In the 2009, 2013, and 2018 UPR, several states (France, Germany, Canada, United Kingdom, Switzerland, Netherlands, Norway, Italy, Denmark, Sweden, Ireland, Finland, and others) recommended that Colombia improve protection and prevention measures for attacks against human rights defenders and highlighted the need to advance in investigations and the punishment of those responsible for these crimes. These and other states recommended that Colombia recognize the work of human rights defenders. Recommendations related to child human rights defenders were made by Thailand, Montenegro, and Germany in the 2013 UPR. These states mentioned the need to ratify the Optional Protocol to the Convention on the Rights of the Child. To date, this OP has neither been signed nor ratified by the Colombian state. Civil society organizations that defend the rights of children and adolescents consider the signing of this OP essential for the leadership and empowerment of children and adolescents in the defense of their rights.

¹³⁰At least 716 murders and 285 attacks were registered between 2018 and 2022. This demonstrates the lack of comprehensive guarantees to defend human rights. There was a total of 4,053 aggressions against human rights defenders in Colombia between January 2018 to June 2022. See: Somos Defensores Program (2022). Theater of Shadows: 2021 Annual Report. Information System on Aggressions against Human Rights Defenders (SIADDHH); and Somos Defensores Program (2022). On the Edge of Darkness: Semiannual Report, January - June 2022. Information System on Aggressions against Human Rights Defenders (SIADDHH). After the signing of the Peace Agreement, there was a notable decrease in the number of violent actions against human rights defenders in Colombia. In recent years there has been a significant increase in violent acts committed against human rights defenders and people who lead social causes in Colombia, including 1,312 violations of the right to life against human rights defenders, with 1,300 cases of homicides and 12 cases of enforced disappearances. These include 20 cases of people with diverse sexual orientations, 174 with women, and 1,118 with men. Of these victims, at least 66 identified as Afro-Colombian, 265 as peasants, and 287 as Indigenous. This information is from the Sociopolitical Violence Database operated by the Colombian Commission of Jurists. This information is taken from the article "Cómo procesa su información la CCJ", available at: http://www.coljuristas.org/documentos/adicionales/como_procesa_su_informacion_la_ccj.pdf. There were problems identifying alleged perpetrators of violence against human rights defenders during the analyzed period (2017 to 30 November, 2022). In 63.34% of the cases the alleged perpetrator is unknown (831 cases) and in 10.98% of cases the alleged perpetrator was identified as belonging to an armed group, but their identity is unknown (144 cases). In cases where the alleged perpetrator is known, the majority came from paramilitary groups with 8.77% of the total (115 cases), followed by FARC-EP dissidents with 6.33% of the total (83 cases), and state

least 716 murders and 285 attacks registered between 2018 and 2022.¹³¹ There was also an increase in gender-based violence during 2021, with a total of 224 aggressions against women leaders and defenders.¹³² This situation highlights the lack of comprehensive guarantees to defend human rights in Colombia. Children are also victims of this violence. This is because the role of child human rights defenders in a democratic society is underestimated¹³³ and they are also subject to threats¹³⁴ and assassinations.¹³⁵

Leaders of faith communities that participate in mobilization scenarios and guarantee human rights are not recognized by the state as victims of the conflict and are denied protections given to other social groups.¹³⁶

Anti-union Violence in Colombia

A total of 991 cases of anti-union violence were documented between 2018 and 2022.¹³⁷ These included 105 homicides, 43 assassination attempts, 37 forced displacements, 71 cases of harassment,

security forces with 3.81% of the total (50 cases). A small number of cases were allegedly committed by: ELN, EPL, civilians, private security companies, and in armed clashes where it is not known exactly which armed actor committed the violence. This information comes from the Sociopolitical Violence Database of the Colombian Commission of Jurists. This information is taken from the article "Cómo procesa su información la CCJ," available at: http://www.coljuristas.org/documentos/adicionales/como_procesa_su_informacion_la_ccj.pdf

¹³¹Figures from January 2018 to June 2022 show a total of 4,053 aggressions: Somos Defensores Program (2022). Theater of Shadows: 2021 Annual Report. Information System on Aggressions against Human Rights Defenders (SIADDHH). Available at: https://media.business-humanrights.org/media/documents/Informe_anual_2021_TEATRO_DE_SOMBRA.pdf; and Somos Defensores Program (2022). On the Edge of Darkness: Semiannual Report, January - June 2022. Information System on Aggressions against Human Rights Defenders (SIADDHH). Available at: <https://somosdefensores.org/al-filo-de-la-oscuridad/>

¹³²Based on data provided by the Colombian Ombud's Office and analysis by Corporación Sisma Mujer, it was identified that during 2021 there were 224 acts of violence against women leaders and defenders. These included: 173 cases of threats, 26 murders, 8 assassination attempts, 6 cases of extortion, 5 forced displacements, 3 cases of stigmatization, 2 kidnappings, 1 case of information theft, and 3 uncategorized cases. This meant that at least one woman defender was a victim of violence every 39 hours during 2021. Sisma Mujer. Situación de las mujeres lideresas y defensoras de derechos humanos en Colombia durante 2021. Available at: <https://www.sismamujer.org/wp-content/uploads/2022/06/SITUACION-LIDERESAS-DIGITAL-V16-demayo-aprobado-1.pdf>.

¹³³It should be noted that although children and adolescents are considered rights holders and their right to freedom of expression and association is recognized, there is no evidence of any state actions, attention plans, or regulations that guarantee the exercising of these rights. Not only do children and adolescents experience the aforementioned difficulties to access attention plans established by the National Protection Unit, but they are also denied recognition as human rights defenders. There are no attention protocols that include a differential approach for children participating in protests or demonstrations. This was evidenced by cases of police violence against children and adolescents during the 2021 National Strike when children and adolescents experienced 2 cases of eye injuries, 30 cases of wounds and personal injuries, and 4 cases of attacks with firearms against 3 boys and 1 girl. There were also 216 cases of arbitrary detention and 4 cases of child homicide.

¹³⁴An example of this situation is the stigmatization and digital threats made against the life and safety of Francisco Vera Manzanares. Francisco is from the municipality of Villegas (Cundinamarca) and is 11 years old. He is a social media activist and founder of the children's environmental defense and rights group Guardianes de la Naturaleza (Guardians of Nature). Francisco currently serves as a child advisor to the Committee, sharing his opinions on the climate emergency, and has questioned the political control exercised by the national government led by Iván Duque.

¹³⁵An example of this situation is the murder of Breiner David Cucuñame, a 14-year-old environmental defender who was a member of the Kiwe Thegna Indigenous Student Guard in the Las Delicias Indigenous Reserve, represented by the Association of Indigenous Councils of Northern Cauca (ACIN). Breiner was murdered during an attack by FARC-EP dissidents on a group of environmental defenders who were carrying out oversight and defense actions in their territory. This event was rejected by the IACHR: <https://www.oas.org/es/cidh/jspForm/?File=es/cidh/prensa/comunicados/2022/114.asp>

¹³⁶The systematic violence caused by the prophetic reporting and social leadership of faith-based communities has been reported by the JUSTAPAZ OSEAS Observatory (<https://www.justapaz.org/observatorio-de-realidades/>) between 1994 and October 2022. During this period, there were 916 cases of leaders of evangelical Christian faith communities who were affected by victimizing events such as homicides, forced displacements, and others. Some of the cases reported by the JUSTAPAZ OSEAS observatory were included in a publication titled "Un llamado profético" (1-16): Las iglesias colombianas documentan su sufrimiento y su Esperanza." This document was based on interviews with direct victims of the events, their relatives, pastors, and church leaders who acted as primary information sources. JUSTAPAZ has always prioritized the principle of good faith in case documentation. This principle is established in Law 1448 of 2011 and states that "the state shall presume the good faith of the victims referred to in this law. The victim may prove the damage they have suffered by any legally accepted means. Consequently, the victim will have to prove the damage suffered before the administrative authority in a summary manner so that the authority can proceed to relieve the victim of the burden of proof."

¹³⁷This is a systematic practice. Between 1971 and 2022 there were 15,748 violations of life, liberty, and bodily integrity committed against trade unionists in Colombia. At least 3,311 trade unionists lost their lives during this period.

12 arbitrary detentions, 701 death threats, and 11 kidnappings. These figures demonstrate a scenario of permanent risk and vulnerability, stigmatization, and accusations that perpetuate systematic and selective anti-union violence.¹³⁸

Closing of Dialogue Spaces with Human Rights Defenders

Dialogue mechanisms between the government and civil society on the protection of human rights defenders¹³⁹ did not function during the period, even though a court ruling ordered their implementation.¹⁴⁰ Other mechanisms, parallel to the already existing ones, have been established that limit civil society participation and do not comply with the objectives of these spaces.¹⁴¹

¹³⁸SINDERH Human Rights Information System operated by the Escuela Nacional Sindical.

¹³⁹The suspended spaces to coordinate guarantees for civil society participation include the National Guarantees Process (PNG), which should involve tripartite dialogue between the state and civil society, with support and accompaniment from the international community. The PNG discusses issues related to guarantees for human rights defenders. This is a political process that responds to the need to reach agreements on actions, measures, and public policy to address the consequences of socio-political violence, which specifically affects social leaders and human rights defenders. There is also the National Commission for Security Guarantees (CNGS), which was established in the Final Peace Agreement with the objective of formulating, implementing, and monitoring public policy to dismantle armed organizations, including the successors of paramilitary groups. According to Law 154 of 2017, multiple state entities participate in the CNGS, with civil society representation through three experts in the field, two delegates from Colombian human rights coalitions, and two delegates from women's human rights coalitions as permanent guests.

The implementation level of the Comprehensive Program of Guarantees for Women Leaders and Human Rights Defenders (PIGMLD) continues to be low. The strategic objectives of its three focus areas are far from achieved: for prevention, the level of satisfactory compliance is just 17.5%; protection is at 22.2%; and even though guarantees of non-repetition exceeds 50% in the satisfactory compliance report, no significant progress has been made in the fight against impunity. See: Sisma Mujer. Programa Integral de Garantías para Mujeres Lideresas y Defensoras de Derechos Humanos (PIGMLD): II Balance Plan de Acción Cuatrienal (2019-2022): Valoración de avances reportados entre el 2do trimestre de 2021 y el 3er trimestre de 2022.

According to documentation and systematization conducted between November 2019 and June 2022 by the Comité de Solidaridad con los Presos Políticos (CSPP)—based on primary sources (interviews and focus groups with lawyers/defenders) and journalistic reports—a total of 93 human rights defenders, social leaders, and signatories of the Peace Agreement were criminalized during this period.

¹⁴⁰In the *tutela* ruling issued by the Civil Chamber of the Superior Court of Bogota on 11 May 2020 on case number 11001310303045202000025-00, the Ministry of the Interior was called to reactivate the National Guarantees Roundtable (MNG) and the Territorial Guarantees Roundtables (MTGs). These roundtables are responsible for jointly defining the most effective public policies to solve problems related to the defense of human rights, providing guarantees for defenders and social leaders, and addressing specific issues that emerge in the different roundtables. The roundtables are required to meet every three months and hear from the plaintiffs, authorities, organizations, and communities affected by these issues. Since this ruling was handed down, the MNG met once on 8 July 2020 and while the MTGs have been convened, only a few have been reactivated (Putumayo, Nariño Pacific Coast, Córdoba, and Arauca). As the entity responsible for convening these roundtables, the Ministry of the Interior has not fulfilled this objective. The Technical Secretariat, a position held by the Ombud's Office, has not had an impact on the roundtables nationally or in the territories. It should be noted that territorial entities continue to benefit from the lack of legal regulations that would force them to finance the creation and activation of the MTGs, a situation that allows them to avoid compliance with this political commitment.

¹⁴¹As a result, the 'Peace with Legality' policy cannot "be understood as policies and actions for the Peace Agreement's implementation. The 'Peace with Legality' policy represents a gross simplification of the Peace Agreement, as demonstrated in its rationale and content." Centro de Pensamiento y Diálogo Político (2020). Notes to the Report of the Secretary-General to the United Nations Security Council on the Implementation of the Mandate of the Verification Mission in Colombia, presented on 26 March 2020. Working Paper #20, p. 22. Available at: <https://cepdipo-co.org/publicaciones/documentos-de-trabajo/20-documento-de-trabajo.pdf>. Additionally, the Timely Action Plan (PAO) from this policy creates scenarios that are parallel to previous efforts and achievements in terms of security for human rights defenders and what is stipulated in the FPA, such as the National Commission for Security Guarantees (CNGS). This PAO "presents different problems that include: (i) disregarding and non-application of the Final Peace Agreement through the creation of parallel tools such as the PAO Commission, which pretends to comply with the FPA but disregards its participatory spirit and does not coordinate actions with its tools; and (ii) the prevalence of a security model based on the actions of state security forces that ignore the human safety lens established in the Final Peace Agreement." Comité de Solidaridad con los Presos Políticos and others. (2020). Desmantelamiento del paramilitarismo. Propuesta de lineamientos de política pública, pp. 56-57. Available at: <http://www.comitedesolidaridad.com/sites/default/files/DESMANTEAMIENTO.pdf>

Criminalization

During the Duque administration, public officials¹⁴² criminalized human rights defenders,¹⁴³ associating them with illegal armed groups.¹⁴⁴ This had the effect of criminalizing social leadership and participation in social protests. Criminal charges¹⁴⁵ and media outlets were misused to amplify the negative narrative about these social actors.¹⁴⁶

Investigations into Crimes Against Human Rights Defenders and Signatories of the Final Peace Agreement

Crimes against defenders and signatories of the FPA continue to go unpunished. The SIU¹⁴⁷ in the Office of the Attorney General has not fulfilled its objective. In terms of finding the masterminds of these crimes and clarifying the organizations' criminal macrostructures, the SIU's results have been minimal.¹⁴⁸

¹⁴²Particularly the Prosecutor General's Office and state security forces.

¹⁴³In accordance with the documentation and systematization conducted by the Committee in Solidarity with Political Prisoners (CSPP) between November 2019 and June 2022—based on primary sources (interviews and focus groups with lawyers/defenders) and journalistic reports—a total of 93 human rights defenders, social leaders, and signatories of the Peace Agreement were criminalized during this period.

¹⁴⁴Different methods are used to associate human rights defenders with illegal armed groups. In recent years there have been legal developments such as Law 1908 of 2018 (legislation on the activities of Organized Criminal Groups and Organized Armed Groups) and Law 2197 of 2022 (modifies the Citizen Security Law). These changes have increased the potential sentencing against human rights defenders by adding more aggravating circumstances to crimes that they are usually charged with (such as conspiracy to commit a crime). The adjusted laws also classify as "dangerous" any person who has been charged in the last three years for crimes against a person's life, bodily integrity, and economic assets. Human rights defenders are often charged with these crimes (and many have been criminalized more than once). The Prosecutor General's Office draws on the National Security doctrine and concept of an Internal Enemy to incriminate human rights defenders using intelligence materials. This situation has been described by several defense lawyers involved in these cases. Of the 93 people registered by the CSPP, 33 were associated with illegal armed groups (primarily dissident groups and the ELN).

¹⁴⁵Ambiguous criminal definitions are used, including those from the Colombian Criminal Code that are contained in the chapters on crimes against public security and constitutional rulings. Protestors were primarily charged with "conspiracy to commit a crime aggravated by terrorism." This means that people charged with this offense cannot access plea deals or criminal subrogation.

¹⁴⁶Yirley Velasco Garrido is a woman human rights defender and leader from the municipality of El Carmen de Bolívar, located in the department of Bolívar in Colombia's Caribbean region. She is a survivor of sexual violence that was committed during the El Salado massacre in 2000. Together with other women in the region, Yirley has worked on behalf of victims of sexual violence in the context of the Colombian armed conflict, not only in terms of criminal investigations but also recognition and collective reparations. In 2020, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures to Yirley and her family, recognizing the heightened vulnerability that she has faced as a woman and social leader. The Prosecutor General's Office and the National Protection Unit have issued stigmatizing statements against Yirley Velasco and her family on social media and through media outlets, stating that the threats she and her family received in El Salado were actually self-threats designed to help her and her family obtain protection measures. This allegation was published on Twitter by the former Attorney General of the Nation, Francisco Barbosa, and the director of the National Protection Unit, Alfonso Campo Martínez. Similar comments were made by the current mayor of El Carmen de Bolívar, who on different occasions has stated that the threats against social leaders in El Salado were related to "passion crimes" and family disputes, that there are no armed groups in the territory, and that Yirley is not in danger, clearly ignoring her high-risk situation.

¹⁴⁷The SIU is a Special Investigation Unit operated by the Prosecutor General's Office, which is responsible for dismantling criminal organizations and conducts that perpetrate the homicides and massacres against human rights defenders, social movements, and political movements. The SIU also targets groups that threaten or attack people who participate in the Final Peace Agreement's implementation and peacebuilding actions, including criminal organizations known as the successors of paramilitary groups and their support networks.

¹⁴⁸On 31 December 2022, of the 417 cases of murdered leaders that had been investigated, just 84 cases reached the sentencing stage and 110 had gone to trial. Of the 409 cases involving violent actions committed against reincorporated former-FARC members and their families, just 60 cases reached the sentencing stage and 66 had gone to trial.

7. Impunity

The recommendations for this area from the 2013 UPR¹⁴⁹ and 2018 UPR¹⁵⁰ were not implemented.¹⁵¹ Impunity continues to be structural in Colombia. There is concern about impunity for crimes committed against children and adolescents,¹⁵² as well as whether public institutions have sufficient capacity to respond to sexual crimes, especially those committed against girls and women.¹⁵³

Investigations into Extrajudicial Executions

The SIVJRN is operating but actions that ensure impunity for extrajudicial executions persist. This increases the safety risks of victims and others who are testifying and affects the clarification of the truth.¹⁵⁴ Obstacles persist in ordinary criminal investigations,¹⁵⁵ which have been frozen since 2016.¹⁵⁶ Senior military commanders have not come forward before the JEP.¹⁵⁷ There are concerns that impunity may occur as a result of the JEP's prioritization and selection process.¹⁵⁸ The methodology used to investigate high-ranking military officers and civilian third parties is unclear.

¹⁴⁹Cyprus' 2013 UPR recommendation mentioned the need to "promote child protection by improving the investigation, prosecution, and prevention of violence against this population." It is important to reiterate this recommendation.

¹⁵⁰In 2018, Romania recommended that the Colombian state "continue implementing measures aimed at developing and strengthening the institutional framework with the perspective of protecting and guaranteeing children's rights." However, based on the information collected there is institutional weakness in terms of tackling impunity for crimes against children and adolescents.

¹⁵¹The Colombian state should implement the necessary measures to achieve effective investigations in cases impeded by the Prosecutor General's Office that do not go beyond the first stage of investigation. For example, the state should implement the United Nations (UN) Guidelines on the Role of Prosecutors (1990), which declares that states must: ensure that prosecutors have all the necessary resources and means to carry out their investigative functions; prevent external incidents such as intimidation and harassment; provide adequate working conditions; and ensure training and objective selection criteria to achieve results by [performing their duties] "fairly, consistently, and expeditiously, and respect and protect human dignity and uphold human rights." UN Guidelines on the Role of Prosecutors. Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana, Cuba, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev. 1 p. 189 (1990).

¹⁵²In cases of crimes against families: 99.43% of the cases are in the preliminary stage while less than 1% have gone to trial; in crimes related to drug use, 88.4% of cases are in the investigation stage and only 4.1% have gone to trial; and in crimes related to the trafficking of children and adolescents, 91% of cases are in the investigation stage and only 1% have gone to trial.

¹⁵³Just 4.9% of cases of sexual crimes against children and adolescents have a conviction while 83% only reached the preliminary stage. It should be noted that the primary victims of this form of violence were adolescent girls and young women (68% of victims) in the period between 2015 to 2020. Source: response to a Freedom of Information request made to the Prosecutor General's Office.

¹⁵⁴Although the JEP implements protection measures for victims and participants, risks continue for those involved in these proceedings. See: "La JEP comienza trámite de medida cautelar de protección integral a comparecientes en situación de riesgo." Available at: <https://www.JEP.gov.co/Sala-de-Prensa/Paginas/La-JEP-comienza-tr%C3%A1mite-de-medida-cautelar-de-protecci%C3%B3n-integral-a-comparecientes-en-situaci%C3%B3n-de-riesgo.aspx>

¹⁵⁵See: CEV. "Los falsos positivos: Ejecuciones extrajudiciales y desapariciones forzadas bajo la modalidad de combates simulados. Capítulo de Violaciones de derechos humanos e infracciones al DIH", 2022. pp.122 - 149. Available at: <https://www.comisiondelaverdad.co/caso-ejecuciones-extrajudiciales>

¹⁵⁶Even though in July 2021 the Prosecutor General's Office repealed Circular 003 of 2019, which had been misinterpreted and impeded the collection of material evidence for investigations, there is still no coordination or advancements from the institution on the investigation. This is because the Prosecutor General's Office has ignored its obligation to continue with investigations until the JEP announces the conclusions of its proceeding.

¹⁵⁷The historical omission of investigations of commanders responsible for these actions by the judiciary has meant that they have not appeared before the JEP. This entity has instead focused on military personnel who have already been convicted or indicted, medium and low-ranking military personnel, and commanders who only reached a high rank after these crimes were carried out. This was in accordance with the policy that rewarded soldiers with promotions for registering the highest number of casualties.

¹⁵⁸The exclusion of the majority of the country's territories persists as a consequence of this process (the JEP has established the following sub-cases within Case 003, which focuses on murders and enforced disappearances committed by members of the state security forces: Casanare, Meta, Huila, Caribbean region (Cesar, Guajira), Antioquia, and Norte de Santander). Certain military units have also been excluded from the investigation of these crimes. There is no effective oversight or monitoring of military personnel who were not in these targeted units but have benefited from the transitional release process (a total of 535 people). There are concerns that the JEP will waive criminal prosecution for these officers in favor of prosecuting soldiers who have not made any contribution to the truth for victims of the armed conflict, resulting in a clear violation of victims' rights. See: JEP. "A fecha de 09 de diciembre de 2022 se han concedido 535 libertades transitorias, condicionadas y anticipadas a miembros de la fuerza pública y terceros". Available at: <https://www.jep.gov.co/IEPcifras/IEP-en-Cifras-diciembre-9-de-2022.pdf>

Torture Investigations

Impunity rates for torture are high. There are 1,183 criminal proceedings for crimes associated with torture and cruel and inhumane treatment, of which 9.89% have gone to trial and 4.56% reached the sentencing stage. A total of 889 cases (75.14%) are currently in the indictment stage, four are in the pre-trial stage (0.33%), 22 cases are in the preliminary investigation stage (1.85%), and 97 are in the investigation stage (8.19%).¹⁵⁹

Investigations into Enforced Disappearances

There are 13,129 active proceedings for enforced disappearance cases, of which 0.42% have gone to trial and 0.21% have reached the sentencing stage. The remaining proceedings do not currently contribute to a satisfaction of the right to truth, justice, and reparations for victims of these crimes.¹⁶⁰

Investigations for Crimes Against Freedom, Bodily integrity, and Sexual Rights

Widespread impunity persists for these crimes. Of all the cases of sexual violence committed in the context of the conflict and recognized by Ruling 092, as of 1 October 2019 only 1.76% had reached the trial stage¹⁶¹ and just 1.08% of the cases¹⁶² had been recognized by Ruling 009.¹⁶³ At the end of 2021, only 16.09% of domestic violence cases¹⁶⁴ had reached the final stage of prosecution. In terms of sexual violence,¹⁶⁵ 6.85% of all cases have gone to trial and 33.81% are femicides.¹⁶⁶

Prosecution of High-level Government Officials

These trials continue to be held under the jurisdiction of the Accusations Commission of the House of Representatives, a political body that has no guarantees of judicial autonomy or impartiality in its

¹⁵⁹Reported by the Prosecutor General's Office. Data taken from the period between 2017 and December 18, 2022. Prosecutor General's Office, Directorate of Policy and Strategy (20.12.2022). Response to an information request presented to the Colombian Commission of Jurists, file number 20221400005171, doc. No. DPE-10200.

¹⁶⁰12,387 cases (94.34%) are in the inquiry stage, 42 (0.31%) in the instruction stage, 2 in early termination (0.01 %), and 87 are in the investigation stage (0.66%). Reported by the Prosecutor General's Office. Data taken from between 2017 and December 18, 2022. Prosecutor General's Office, Directorate of Policy and Strategy (20.12.2022). Response to an information request presented to the Colombian Commission of Jurists, file number 20221400005171, doc. No. DPE-10200.

¹⁶¹57.65% of the cases of sexual violence committed in the context of the armed conflict and that have been recognized by Constitutional Court Ruling 092 of 2008 are in the preliminary inquiry/investigation stage. This is the first judicial stage once a complaint is received. 23.53% are in the preliminary investigation stage.

¹⁶²"Persistencia y agudización de las violencias contra las mujeres: desafío ineludible de las nuevas administraciones locales. Comportamiento de las violencias contra las mujeres y niñas en Colombia durante 2018 y 2019". Bulletin No. 18. Special Report. Corporación Sisma Mujer. November 25, 2019. Available at: [25-11-2019-Bulletin-25-de-Noviembre-de-2019_SISMA-MUJER-VF.pdf \(sismamujer.org\)](https://www.sismamujer.org/25-11-2019-Bulletin-25-de-Noviembre-de-2019_SISMA-MUJER-VF.pdf). Accessed on 20 December 2022.

¹⁶³Of the cases contemplated in Ruling 009 of 2015, 50.95% were in the preliminary investigation phase and just 2.98% in the investigation stage.

¹⁶⁴In terms of cases of domestic violence, 82.92% are in the investigation stage. This demonstrates a high level of impunity as only 16.09% of cases have gone to trial and only 0.8% reached the sentencing stage. See: Boletín No. 29. Día Internacional de la Mujer 2022. Violencias contra las mujeres y participación en el mercado laboral. Available at: [VF-Bulletin-8M-2022-1.pdf \(sismamujer.org\)](https://www.sismamujer.org/VF-Bulletin-8M-2022-1.pdf (sismamujer.org)). Accessed on 20 December 2022.

¹⁶⁵88.19% of cases of sexual crimes against women are in the investigation stage. This indicates high-level impunity as only 6.85% of cases go to trial and just 0.13% reach the sentencing stage.

¹⁶⁶Of all cases, 44.06% are still in the preliminary investigation stage, 33.81% have gone to trial, 13.73% are in the investigation stage, and just 7.17% have reached the sentencing stage. See: Boletín No. 29. Día Internacional de la Mujer 2022. Violencias contra las mujeres y participación en el mercado laboral. Sisma Mujer. Available at: [VF-Bulletin-8M-2022-1.pdf \(sismamujer.org\)](https://www.sismamujer.org/VF-Bulletin-8M-2022-1.pdf (sismamujer.org)). Accessed on 20 December 2022.

investigations.¹⁶⁷ Of the 1,391 active cases,¹⁶⁸ just three High Court judges have been indicted before the Senate.¹⁶⁹

Military Criminal Justice

The deaths of civilians at the hands of law enforcement officers, including deaths during social protests,¹⁷⁰ were initially investigated by the Military Criminal Justice system.¹⁷¹ A clash of jurisdictions occurred when these investigations were taken over by the civil justice system. The independence of the Military Criminal Justice system has been strengthened over the last five years but this has not translated into any reduction in impunity levels.¹⁷² The lack of updated information on the cases available, including this system's precarious submission of information to the JEP and the CEV, shows a lack of transparency on cases that are under its jurisdiction.¹⁷³

8. Response to the Covid-19 Pandemic

The government's pandemic response was characterized by a lack of timely and effective actions that could have reduced the spread of Covid-19 in the DCs.¹⁷⁴ There was a notable lack of information on

¹⁶⁷The Commission of Accusations consists of 16 Congressional Representatives who have been elected to the House of Representative and represent different political parties. Its role is to prepare and present accusations when there are constitutional cases against the president, Constitutional Court or Supreme Court justices, members of Council of State or Superior Council of the Judiciary, and the Prosecutor General.

¹⁶⁸Commission of Investigation and Accusations, House of Representatives of the Republic of Colombia (6 December 2022). Response to an information request, File Number C.I.A.-A 3.8.33.1232.2022. Filed by the Colombian Commission of Jurists.

¹⁶⁹Former president of the Constitutional Court Jorge Ignacio Pretelt, former president of the Supreme Court Leonidas Bustos, and former judge of the Criminal Appeals Chamber of the Supreme Court, Gustavo Malo.

¹⁷⁰In its *on-site* visit report published in June 2021, the IACHR once again expressed concern that cases of human rights violations committed by the police, specifically the ESMAD anti-riot unit, were going to trial in the Military Criminal Justice system and had been considered *line of duty*. The IACHR recommended to the Colombian state "that all cases, especially those related to human rights violations by state security forces, be heard by the ordinary justice system and not by the Military Criminal Justice system." See: IACHR. Observations and Recommendations. Working Visit to Colombia. June 2021. p. 30 Par. 127

¹⁷¹The IACHR stated that because military conduct "affects life, personal integrity, personal liberty, and the recognition of personality, these cannot be classified as crimes of a military nature as they could never be considered as legitimate and acceptable actions required to complete a military mission." See: IACHR, Radilla Pacheco v. Mexico, Preliminary Objections, Merits, Reparations and Costs. para. 277.

¹⁷²Data published by the El Espectador newspaper regarding impunity in the Military Criminal Justice system highlighted delays in the provision of this information by the Military Criminal Justice system. The article states that even though in 2019 there were more than 196,000 cases before this jurisdiction, during that year just 587 court martials were held (0.3% of the total), which are considered trial hearings. In addition, sentences were handed down in just 911 cases (0.4%). See: <https://www.elespectador.com/noticias/politica/hora-de-reformar-la-justicia-militar-un-debate-que-levanta-roncha/>

¹⁷³The director of the Military Criminal Justice system justified this situation by stating that "*this jurisdiction is not systematized and there are no electronic records for each process.*" See: El Tiempo. February 21, 2021. La orden para que Justicia Militar rastree casos que deben ir a la JEP. See: <https://www.eltiempo.com/justicia/JEP-colombia/falsos-positivos-en-justicia-penal-militar-hacen-rastreo-para-enviar-casos-a-JEP-568416>

¹⁷⁴The Ministry of Health issued Resolution 385 of 12 March 2020 and the Presidency of the Republic issued Decree 417 of 17 March 2020 through which they declared a state of economic, social, and ecological emergency. This legislation was declared constitutional by Constitutional Court Ruling C-145 of 2020. However, it wasn't until 26 May 2020 that the Ministry of Health adopted a biosecurity protocol to manage and control coronavirus risks in DCs through Resolution 843 of 2020. Decree 546 of 2020, which sought to decrease overcrowding in DCs, was an ineffective regulation, lacked a suitable gender approach, and was marked by arbitrary decisions that were unjustified under medical-scientific parameters. Even though there was a decrease in Covid-19 cases in the DCs in 2021, many restrictions to the rights of PDL were unjustifiably maintained over a significant period of time, causing profound impacts on their mental health. There were also limitations to report irregularities and human rights violations in DCs during the pandemic.

PDL health status and they faced increased difficulty to obtain medical appointments.¹⁷⁵ In terms of access to safe drinking water, 14.1% of PDL did not have access to water from an aqueduct¹⁷⁶ while 34.62% required help from others to carry out their basic daily activities.¹⁷⁷ Guarantees for their rights were drastically affected during the pandemic.

9. Economic, Social, and Cultural Rights

Poverty and Inequality

Between 2017 and 2022, poverty and inequality worsened. This primarily impacted poor people, women, and youth. During these five years, the GINI index increased from 0.508 to 0.523,¹⁷⁸ youth unemployment reached 18.3 % (a 1.03% increase)¹⁷⁹ and female unemployment rose to 13.5% (a 1.07% increase).¹⁸⁰ Both populations had unemployment rates above 20% in the last five years. Monetary poverty reached 39.3% and extreme poverty was 12.2%.¹⁸¹

Inequality in Land Ownership

Since 2018 there has been an increase in the concentration of land ownership. There were 5,609 unfulfilled orders on rulings from land restitution judges.¹⁸² In 2022, just 247,023 hectares of land were returned as part of land restitution orders, of which 244,762 hectares were allocated to ethnic communities while 2,247 hectares were awarded to peasants without any land or who had insufficient land for their needs.¹⁸³

¹⁷⁵According to the IX and X National Government Report, between January and March 2020 just 11,701 of the 16,588 authorized medical appointments were attended by PDL. This represented a compliance rate of just 47.2% for appointments requested by PDL during the period (a total of 24,786 appointments were requested). During January and February 2021, just 2,337 appointments were requested, of which 2,335 were assigned and 2,318 were attended by PDL. This discrepancy is why the Monitoring Committee highlighted the considerable decrease in medical appointments. The number of appointments requested went from a monthly average of 8,262 in 2020 to 1,168 in 2021 (a 70.7% reduction), the number of appointments assigned dropped from a monthly average of 5,529 in 2020 to 1,167 in 2021 (a 473.8% reduction), while the number of appointments attended by PDL dropped from a monthly average of 3,900 in 2020 to 1,159 in 2021 (a 336.5% reduction). See: <https://bit.ly/3uHyr3h>

¹⁷⁶In response to WHO sanitary requirements, the DANE observes that "*the lack of access to an aqueduct is an obstacle that impedes the implementation of basic hygiene measures such as constant hand washing and frequent disinfection of assistive devices, such as wheelchairs, canes, walkers, and any other item that is often touched and used in public spaces.*" See: Boletín Personas con Discapacidad en la Pandemia (2020): <https://bit.ly/3iZYyGk>

¹⁷⁷For people with high-level support and assistance needs, isolation measures signified cutting off their support networks and ability to enjoy independent and community living. Survey results show that for 54% of PWD, their situation was better before the pandemic, for 37% their situation was the same, and for just 9% of PWD the situation was worse before the pandemic. See: UN Women, UNFPA, and UNICEF (2021). Análisis de la situación de las personas con discapacidad en Colombia: Entre avances y retos, p. 13. <https://bit.ly/3Hrk1E1>

¹⁷⁸See: National Administrative Department of Statistics, (DANE). (2022). Comunicado de prensa: pobreza monetaria. Available at: https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2021/Comunicado-pobreza-monetaria_2021.pdf

¹⁷⁹See: National Administrative Department of Statistics, (DANE). (2022). Gran Encuesta Integrada de Hogares (GEIH). Available at: https://www.dane.gov.co/files/investigaciones/boletines/ech/juventud/boletin_GEIH_juventud_jul22_sep22.pdf

¹⁸⁰See: National Administrative Department of Statistics, (DANE). (2022). Gran Encuesta Integrada de Hogares (GEIH). Available at: https://www.dane.gov.co/files/investigaciones/boletines/ech/ech_genero/boletin_GEIH_sexo_jul22_sep22.pdf

¹⁸¹See: Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo. *Hunger and war: the Apprentice's legacy. Report on the last year of the Iván Duque Márquez government.* (2022). Retrieved from: <https://informesderechoshumanos.com/wp-content/uploads/2022/06/El-legado-del-aprendiz-web.pdf> (Accessed 29/11/2022).

¹⁸²In: Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo (PCDHDD. *Lessons from the Apprentice: authoritarianism and inequality. Report on the third year of the Iván Duque Márquez government.* (2021). Retrieved: <https://ddhhcolombia.org.co/2021/09/20/autoritarismo-y-desigualdad-informe-derechos-humanos/> (Accessed 28/11/2022).

¹⁸³The Duque administration's lack of interest in overcoming this situation was shown by the fact that it did not pass the Agrarian Jurisdiction Law to process land conflicts. In 2021, more than 96% of municipalities still did not have cadastral information despite the government's commitment to provide it, or they had outdated land ownership records. In: Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo. *Hunger and war: the Apprentice's legacy. Report on the last year of the Iván Duque Márquez government.* (2022). Available at: <https://informesderechoshumanos.com/wp-content/uploads/2022/06/El-legado-del-aprendiz-web.pdf> (Accessed 29/11/2022).

Right to education

Recommendations made in the UPR 2018 in relation to the right to education were not met¹⁸⁴. Entry to primary education has not exceed 60% of the total school-age population¹⁸⁵. Schools face difficulties with furniture shortages (desks and chairs), educational access and permanence, internet service, curricular adaptation, and other issues.¹⁸⁶ Insufficient measures were taken to ensure the continuity of educational services during lockdowns in the pandemic¹⁸⁷. There has been non-compliance with biosafety protocols during the return to classrooms following this health emergency and there are no strategies for the provision of assistance to students with mental health problems¹⁸⁸. A total of 200 teachers received threats in 2022¹⁸⁹.

Right to food

Violations of the right to food in Colombia are serious and widespread. Official figures (2015) show that 54.2% of households experience food insecurity, 24.4% of children between 5 and 12 years old are overweight, and 56.9% of the adult population is obese. The number of families experiencing hunger worsened during the pandemic while the government denied that this human tragedy was occurring. The mandate in the FPA to establish a progressive system that guarantees the right to food has not been achieved. Although the new government plans to combat hunger and move towards food sovereignty, there is still no clear information about how they are going to achieve this.

10. Environmental Rights

Right to Water and Socio-environmental Conflicts

Close to 94% of the country's population has access to potable water, however, access is neither permanent nor of a high quality.¹⁹⁰ The monopolization of the country's water resources and fertile

¹⁸⁴The recommendations made by China, the Russian Federation, the State of Palestine, Haiti, and Sri Lanka highlighted the need for the Colombian state to guarantee the right to education in order to overcome gaps between urban and rural areas. These states also recommended increasing literacy rates among the country's different ethnic groups. Figures from the Centro de Investigación Económica y Social de Fedesarrollo show that the dropout rate is a central problem in the Colombian education system: for every 100 children who start 1st grade of primary school, only 44 graduate from high school. The dropout rate is even higher in the transition between secondary school and vocational or higher education. Of those 44 graduates, just 17 (38.7%) access higher education. The situation is worse in rural areas due to the multiple barriers that affect access to education such as age disparity, economic factors, and social situations. Children and youth must choose between studying, working, or caring for family members.

¹⁸⁵According to data provided by the Centro de Investigación Económica y Social de Fedesarrollo, as of June 2022 this rate was even worse in rural areas with just 45% of children and adolescents enrolling in the last two years of high school. It is important to note that this is the lowest rate among all Latin American countries and is below the target rate proposed by the Organization for Economic Cooperation and Development (OECD).

¹⁸⁶Ó. Sánchez, M. Simpson and L. Nossa, *Educación, ruralidad e inclusión. Una mirada territorial del caso colombiano*, In *Inclusión y educación en tiempos postpandemia*, Latin American Office, International Institute for Educational Planning - UNESCO, 2021, pp. 143-168.

¹⁸⁷J. Serrano, *Educación en tiempo de confinamiento*. In *The Apprentice's ungovernment. Authoritarianism, war and pandemic. Report on the second year of Iván Duque's government*, Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo (PCDHDD); Coordinación Colombia-Europa-Estados Unidos (CCEEU); Alianza de Organizaciones Sociales y Afines (Alianza), 2020, pp. 96-103.

¹⁸⁸Federación colombiana de trabajadores de la educación, *El derecho a la educación: una pastilla de azúcar, pero sin azúcar*. In *Lessons from the Apprentice: authoritarianism and inequality. Report on the third year of the Iván Duque Márquez government*, Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo (PCDHDD); Coordinación Colombia-Europe-USA (CCEEU); Alianza de Organizaciones Sociales y Afines (Alianza), 2021, pp. 249-256.

¹⁸⁹Based on data provided by the Asociación de Institutores y Trabajadores de la Educación del Cauca (ASOINCA).

¹⁹⁰Findeter. Estudio del sector de agua potable y saneamiento básico en Colombia. 2021. Available at: <https://repositorio.findeter.gov.co/bitstream/handle/123456789/9703/%284%29%20ESTUDIO%20SECTORIAL%20apysb%20.pdf?sequence=13&isAllowed=y>

land represents a serious risk in the form of extractive projects such as fracking and coal,¹⁹¹ industrial projects such as the production of ultra-processed foods,¹⁹² and agro-industrial projects such as monocultures¹⁹³ that require large quantities of water and threaten the environment.

Previous administrations have prioritized the development of an extractive sector¹⁹⁴ led by multinational companies with a presence in the territory. This has exacerbated the increasing exploitation of natural resources through large-scale mining and water privatization¹⁹⁵ with little concern for serious environmental damage and the impact on dependent life forms.¹⁹⁶ Environmental authorities disregard international principles on environmental protection. These authorities grant

¹⁹¹Report on the right to water from the Colombia Plataforma de Derechos Humanos, Paz y Democracia. Fracking y explotación de carbón. "In its 2018 sustainability report, the company acknowledged using 11.9 million cubic meters of water and distributing 27.2 million liters annually (27,000 cubic meters) to surrounding communities (Cerrejón, 2018)."

¹⁹²Coopting the ultra-processed food and sugar-sweetened beverage industry.

¹⁹³The expansion of agribusiness has led to a significant increase in water use. According to the latest National Water Study (2019), agricultural activities use 43.07% of water consumed nationally. Hay (17.60%), which is required for livestock, oil palm (10.36%), and sugar cane (6.61%) use over one third (34.57%) of the 16.07 billion cubic meters of water consumed each year.

¹⁹⁴The accumulation of capital has been more important than protecting ecosystems and the environment in these decisions, which has generated major problems nationally. These issues affect exploitation activities such as coal mining in La Guajira and Cesar, involve investment in extractive megaprojects that do not use mining revenue or royalties to resolve environmental damages, and contribute to the destruction of agricultural production in the territories. These issues increase social inequality and lead to corruption in the municipalities.

¹⁹⁵As WWF said in 2017, development in Colombia cannot ignore the urgent need to implement "sustainable management of ecological infrastructure—understood as land, sea, and freshwater ecosystems, as well as ecosystem services—as an essential element that ensures sustainability for proposed development strategies" (p. 132). This is a severe situation because over 70% of Colombia's population is urban. Even regions that once had the highest indexes for biodiverse natural ecosystems now show signs of disaster. For example, in the Orinoco river basin, the growing population in the foothills has polluted water sources, increased unsustainable consumption, caused forest loss, participated in illegal coltan mining, and contributed to soil changes due to intensified cattle ranching and gas and oil exploitation. There have been changes to rivers' natural flow due to climate change along with levels of trafficking of plant and animal life, as well as other serious problems. Cfr. at https://d2ouvy59p0dg6k.cloudfront.net/downloads/colombia_viva_informe_2017_1.pdf

Displacement, armed conflict, economic development projects, extractive practices, exploitation of non-renewable natural resources, the illegal trade of resources, garbage burning that causes atmospheric pollution due to poor waste management, the granting of mining concessions, seismic effects of oil exploration, and others. In relation to mining concessions, there are both legal and illegal concessions; while the latter clearly break applicable laws, the former include concessions that do not always have the required studies to ensure there will be no damage to the environment, agriculture, and the life and health of those who inhabit the areas. Environmental damages and rights violations are justified as legitimate forms of violence exercised by the state. This is the case with CAS actions. Despite identifying the serious consequences of open-pit coal mining in El Carmen de Chucurí and San Vicente de Chucurí in Santander, a multinational company was granted a license through a national company. In terms of poor waste management, experiences have been documented about polluting landfills in Manizales (Cfr. in <https://consejodeestado.gov.co/news/28-jul-2022.htm>), Bucaramanga (Cfr. in <http://repositorio.uts.edu.co:8080/xmlui/handle/123456789/2309>), Bogotá (Cfr. in <https://medioambiente.uxternado.edu.co/relleno-sanitario-dona-juana-una-solucion-llena-de-problemas/>), and others.

¹⁹⁶Cfr. at https://medioambiente.uxternado.edu.co/diez-retos-ambientales-para-el-nuevo-gobierno/?thumbnail_id=10211 The challenges to reduce socio-environmental conflicts include: democratizing the use of clean energies, protecting water sources, reforming the Regional Autonomous Corporations (environmental authorities) as they do not fulfill their missions, establishing waste management requirements, a waste management culture, requirements for the management of toxic substances and products, improving air quality, recovering Colombia's forests, implementing the Escazú Agreement beyond mere ratification, financing environmental management, and unifying efforts based on the country's existing legal tools for climate change and the protection of air quality. In the face of socio-environmental conflicts caused by poor decisions regarding the use and protection of land and the impact on ecosystems and biodiversity, this document has highlighted specific experiences in the department of Santander.

Territorial disputes affecting the environment in Colombia are not only the result of political violence but are also due to clashes between criminal gangs that seek to control physical spaces for their illegal businesses. This includes controlling drug trade and illegal mining extraction and commerce. The effects of climate change include droughts, floods, deforestation, fires, loss of arable land, erosion, loss of inhabitable spaces, extreme rainfall, landslides, among others. This is aggravated by the lack of response capacity at local and even national levels under a pretext of a lack of resources, despite legal mechanisms that allow for action in the case of an emergency and/or calamity.

licenses¹⁹⁷ that generate socio-environmental conflicts¹⁹⁸, and violations of human rights¹⁹⁹ and the rights of nature²⁰⁰. This practice causes severe socio-environmental conflicts that are worsened by illegal mining²⁰¹ and fracking.²⁰²

¹⁹⁷In 2017 an environmental license application filed in 2012 with the CAR to extract coal in El Carmen Chucurí and San Vicente de Chucurí was stopped due to pressure from locals. This was due to project irregularities and environmental damages and the decision was supported by a consultancy carried out by the environmental authority. Despite this situation, the license was approved in August 202, representing a risk for environmental and community leaders who demanded territorial protection. Activities to defend the territory and environment have endangered leaders' safety and lives. A cocoa producer from the region, who sought political support on this issue and expressed opposition to the extractive project, was threatened and told to be silent or he would be killed. Situations such as these have led to collective and peaceful protests and demands made to the CAS, in addition to legal action. This environmental authority has yet to demonstrate any interest. There have also been collective statements made by the region's active forces, which demand that the authorities stop granting licenses. This position has been raised with national decision-makers. To date, CAS's position is to approve licenses that will cause enormous socio-environmental damage. According to available information, the region is being invaded by outsiders occupying licensed areas without permission, generating conflicts with local inhabitants. Armed actors continue to have a presence in the region after the signing of the Peace Agreement and form part of the dynamics of the armed conflict. Consequently, risks to the human rights of leaders who oppose the mining project have increased. CAS granted the COLCCO S.A. coal mining company the right to exploit 1,949 hectares and extract 500,000 to 800,000 tons of open-pit coal per year. In addition to coal, the company will also be able to extract other minerals from the region for the coming 30 years. The damages foreseen with the approval of this environmental license include negative impacts on human health, agriculture, fauna, flora, pasture, small-breed livestock, fish farming, and other problems caused by coal dust and silica. The granting of this license will also modify the sector's microclimate, with irreversible effects on the ecosystem and protected areas, such as the Yariguíes National Park. These activities will also cause water pollution, as poisonous elements from the mining operation will enter the Cascajales River. Interestingly, several coal mining companies in the region have been fined for non-compliance with their Environmental Management Plan on the treatment of polluted water. The current legislation and jurisprudential orders that ignore citizen participation from residents of these two municipalities is evidence that the actions of environmental authorities only seek to respond to economic and political interests. The project's real impact was not effectively shared with the local population, nor were peoples' voice listened to. Furthermore, this situation shows that an entity designed to "manage renewable natural resources and the environment with the criteria of sustainability, equity, and citizen participation, with an ethical commitment and responsibility to those served," as defined in its mission statement, contributes to illegal environmental damages by not stopping the imminent destruction of a region, including the territory and the lives that depend on it.

¹⁹⁸Ríos de Mujeres (2022). *Corporación Jurídica Libertad*. This presents lessons learnt from the experiences of different women leaders in the Argelia, Cocorná, and San Rafael municipalities located in the Oriente Antioqueño region, which face socio-environmental problems related to the implementation of PCHs. Currently, the municipality of Argelia is focusing its efforts on defending the La Paloma River, a water source that is shared with the municipality of Sonsón and where four similar hydroelectric projects are planned. The municipalities of Cocorná and San Rafael already have hydroelectric projects in their territories, meaning that locals recognize and understand the impacts of these interventions. This is why they are currently defending their territories against the possibility of a new PCH and achieving, through organization, protests, and public hearings, the withdrawal of several projects, such as the Cocorná III PCH. Actions that resist the arrival of new projects, which is happening in San Rafael with the PCH on the Churimo River, have strengthened the region's social and peasant movements. <https://cjlibertad.org/rios-de-mujeres/>

¹⁹⁹Tribunal Internacional de Opinión "Por la Defensa de los Bienes Comunes en Antioquia" (2020). *Corporación Jurídica Libertad*. The department of Antioquia has a long history of social and political resistance. It has peasant, Indigenous, Afro-descendant, women's, victims', environmental, neighborhood, community, human rights, and other social organizations. This partially explains the concentration of social and political violence in the department, in addition to violence resulting from the armed conflict. The political, economic, and military elite, who have major interests in the territory and its common goods, have resorted to legal and illegal forms of persecution and rights violations against social leaders, communities, and organizational initiatives. Thousands of people have been assassinated, disappeared, displaced, tortured, prosecuted, or subjected to other forms of aggression to prevent the social, political, and economic transformations promoted by organizations (...) The policy to privatize territories and common goods for commercial aims not only endangers the existence of communities, but also humanity itself. <https://cjlibertad.org/libro-memorias-del-tribunal-internacional-de-opinion-por-la-defensa-de-los-bienes-comunes-en-antioquia/>

Informe: San Roque, de la doctrina contrainsurgente al extractivismo (2020). *Corporación Jurídica Libertad*. Between 1970 and 2016 in the Northeast subregion, and specifically in the municipality of San Roque, a criminal plan was executed within a territorial context of serious human rights violations (...) The aims of this criminal plan were: 1) generate terror and a social disciplining of the population, 2) eliminate any organization that conflicted with the dominant sectors' interests, and 3) impose and consolidate an extractivist model that has led to land concentration for the exclusive use of mining, hydroelectric, and agribusiness (extensive cattle ranching and forestry). The main benefactors are transnational corporations and dominant sectors of the country, such as landowners. (...) These three objectives were achieved, and as testimonies provided for this report show, fear was imposed in the territory and as a result many voices remain unheard. The people of Cristales, Providencia, and Nus were witnesses, victims, and survivors of serious human rights violations, especially enforced disappearances in Cristales, which is an area where the UBPD must implement actions. As is shown in the report, local Christian, progressive, and opposition organizations were wiped out during this period, which eliminated the possibility of expanding a broad and pluralist democracy. On the contrary, an internal enemy policy was implemented—which involved stigmatization and accusations against those who chose to transform inequality in their territories. <https://cjlibertad.org/informe-san-roque-de-la-doctrina-contrainsurgente-al-extractivismo/>

²⁰⁰Artisanal and small-scale mining, a traditional practice rooted in a subsistence culture, is characterized as labor-intensive and uses simple, portable, and rudimentary machines and tools. This mining activity is a significant source of employment and income, primarily in

remote rural areas that have the highest levels of unsatisfied basic needs. In: Güiza, L. (2013). La pequeña minería en Colombia: una actividad no tan pequeña. *Revista Dyna*, 80 (181), 109-117.

In municipalities such as Vetas and California, Santander, artisanal gold mining has made important progress while achieving increased territorial transformation. There is no denying the will and efforts of miners over the last two decades to improve their practices and conserve the ecosystems they occupy.

On the contrary, illegal mining seeks to extract minerals without a license. Illegal mining uses harmful and poisonous materials that affect human health and nature and has generated protests and violent conflicts in the region. While a protest was being carried out by traditional miners in California, Santander, on 22 July 2022, a member of the Army shot and killed an artisanal miner who was participating in the demonstration. This was a human rights violation, specifically a murder resulting from an abuse of authority. The reporting of this event raised awareness about the high levels of mercury pollution in the La Baja Creek and Suratá River, which are also located in California, informing the general public about what is happening in Soto Norte. The Metropolitan Aqueduct of Bucaramanga, the Bucaramanga local human rights office, the Corporación Autónoma Regional para la Defensa de la Meseta de Bucaramanga (CDMB) and important regional and national media outlets have commented on the high pollution levels in the Suratá River. Cfr. en <https://www.elespectador.com/ambiente/blog-el-rio/uno-de-los-principales-rios-de-santander-tiene-altos-niveles-de-mercurio/>

Illegal mining is one of the largest problems faced by the inhabitants of these regions as their territories are coveted for large-scale gold exploration and exploitation. As part of the previous decade's so-called mining boom, the state trusted the mining sector to promote local development. In: Duarte, C. (2012). Gobernabilidad Minera: Cronologías legislativas del subsuelo en Colombia. *Centro de Pensamiento RAIZAL*. Obtained in <https://gobernabilidadminera.files.wordpress.com/2012/01/gobernabilidad-minera-cronologicc81as-legislativas-del-subsuelo-en-colombia.pdf>

These interests have given large multinationals access to gold exploration and exploitation. To promote the mining "motor" and boost the economy, artisanal and small-scale mining operations in areas of interest to these corporations were discredited. The institutional discourse focused on the lack of safety conditions and environmental impacts of artisanal gold mining while championing the disreputable idea that large-scale mining is nature-friendly, an untrue reality that previous administrations have promoted with local communities. The multinationals took advantage of this discourse, noting that the government favored and supported large-scale mining and insisted that traditional and artisanal gold mining would have serious environmental impacts. In Buitrago, E. (2012). *Entre el agua y el oro: tensiones y reconfiguraciones territoriales en el municipio de Vetas, Santander, Colombia* [Undergraduate thesis]. Universidad Nacional de Colombia, Bogotá, Colombia.

The environmental authority has also had a role in affecting the region. After widespread grassroots protests in 2011, the Autoridad Nacional de Licencias Ambientales (ANLA) withdrew the license for Greystar's pretentious "Angosturas" project. When the *páramo* was declared a Regional Natural Park in 2014, large and small-scale legal mining companies stopped their activities and unemployment grew in the municipalities. Following these actions, illegal mining practices were reactivated, such as "*galafardeo*" and panning in abandoned pits dug during explorations made as part of the mining concessions. Illegal mining by miners from the region has increased in recent years. These miners lack other forms of subsistence, which is why they carry out these actions. According to a local newspaper, people have also arrived from other regions of Colombia and Venezuela to carry out illegal mining activities. Because they require elements to separate the gold and silver from the rock that were prohibited in Law 1658 of 2018, an underground market to supply these materials has emerged (mercury, explosives, and cyanide) that is supplied through Bucaramanga. These sales exist in parallel to the black market for purchasing gold and silver that have been irregularly extracted. The newspaper warns that, specifically in the municipality of California, an entire gold exploitation mafia network has been developed by groups of miners whose "leaders" control mine access. A portion of the gold-bearing rocks extracted from the pits must be handed over to access the network. Cfr. at <https://www.vanguardia.com/area-metropolitana/bucaramanga/mafias-sacan-oro-del-paramo-de-santurban-CE5776523>

Unfortunately, this is fertile ground for increasing social problems such as corruption and extravagance due to the circulation of large sums of money, the use of children and adolescents for mining, and an excessive increase in the sale and use of narcotics. Cfr. in Gutiérrez, J. (12 June 2022). *La desgracia del oro que se roban del Páramo de Santurbán en Santander*. Vanguardia. <https://www.vanguardia.com/area-metropolitana/bucaramanga/la-desgracia-del-oro-que-se-roban-del-paramo-de-santurban-en-santander-CC5307488> This context also favors the presence or arrival of illegal armed actors who have purely economic interests and have historically benefited from large-scale illegal mining. However, these practices do not favor artisanal miners, who were once significant social actors in the regional economy. The institutional discourse seeks to hide the reality of illegal mining, arguing that the activity is ancestral mining. This is what Jorge Abad Maldonado—an ancestral miner and legal representative of Calimíneros SAS, a small to medium-scale mining company consisting of 160 families with legal titles for their mines—refers to when he highlights the need to stop using mercury for gold extraction: "Our activity has been 'demonized' because mining became a 'flag ship' issue for those who do not understand that there are people who use mining practices that are environmentally responsible with communities and workers." Cfr. in Albis, I. (30 August 2022). *Dos 'mentores mineros' buscan erradicar el mercurio de Santander*. Vanguardia. <https://www.vanguardia.com/area-metropolitana/bucaramanga/dos-mentores-mineros-buscan-erradicar-el-mercurio-de-santander-LC5631368>

In addition, fracking as a fossil fuel (oil and gas) extraction method used to exploit unconventional reserves, has generated debate due to its impact on territories. Because Colombia does not have binding community participation tools that guarantee access to information, dialogue, and agreements between the civilian population, governments, and companies, social protests led by environmental organizations are used to share scientific evidence and highlight the effects on sites where this technique is being used, demonstrating serious impacts. Interestingly, other countries have totally or partially banned *fracking*. In Colombia, the practice has been a topic of discussion within the oil industry for over a decade and parameters have not been established for its development. This technique does not guarantee the protection of nature nor the health of a population in a country with Colombia's geological characteristics. For this reason, the Duque administration appointed an independent interdisciplinary commission of experts to establish a work plan and collect information about fracking's effects on the land, water, environment, health, and human life in the Magdalena Medio, a region with considerable extractive potential. One of the municipalities chosen for fracking pilots was Puerto Wilches, where social and environmental organizations have held numerous protests and implemented a wide range of advocacy actions. This is why leaders are subjected to threats and security incidents by the industry and other sectors interested in implementing fracking, a situation that has forced some of them to leave the region due to high risks to their lives and personal safety.

Regulations that Violate Rights

Law 2099 of 2021 covers alternative energy mechanisms. However, these continue to contribute to environmental exploitation and greenhouse gas emissions as part of a false transition, ignoring alternatives such as solar and wind energy production.²⁰³ In 2021, new environmental crimes were defined in legislation that criminalize marginalized populations living near the agricultural frontier.²⁰⁴

11. Cooperation with international mechanisms

Colombia has failed to comply with recommendations to cooperate with international human rights protection mechanisms. Colombia has not received a country visit from a UN Special Procedure since February 2010, with the exception of the 2018 visit by the Special Rapporteur on the situation of human rights defenders. Seventeen other special procedures have requested visits²⁰⁵ since May 2018 and none have been accepted, which contradicts the standing invitation made in 2003.²⁰⁶

Iván Duque's government questioned the technical and political suitability of the Office of the United Nations High Commissioner for Human Rights in Colombia to monitor the human rights situation during the 2021 protests.²⁰⁷

²⁰¹Artisanal and small-scale mining, a traditional practice rooted in a subsistence culture, is characterized by labor-intensive processes using simple, portable, and rudimentary machines and tools. On the contrary, illegal mining seeks to extract minerals without a license, which has generated protests and violent conflicts in the region. Illegal mining is one of the biggest problems faced by the regions' inhabitants as their territories are coveted for large-scale gold exploration and exploitation. In accordance with the previous decade's so-called mining boom, the state has trusted the mining sector to promote development while the local environmental authority also had a role in affecting the region. Illegal mining in the region has increased in recent years. Unfortunately, this is fertile ground for increasing social problems.

²⁰²Colombia does not have binding community participation tools that guarantee access to information, dialogue, and agreements between the civilian population, governments, and companies. For this reason, there have been social protests led by environmental organizations that highlighted the effects and scientific evidence from sites where this technique is being used, demonstrating the serious impacts of this practice. Nationally, the extractive industry is increasing its presence in departments such as Antioquia, Boyacá, and La Guajira, where there is a concentration of resources extracted via mining and water privatization. National and transnational companies, both public and private, continue to submit licensing applications to environmental authorities to extract minerals and exploit water sources. This process lacks technical and social rigor as it ignores how communities inhabit their territories and generates territorial disputes and tensions. In this context, the environmental authorities (ANLA-CAR)—ignoring international principles on environmental protections—grant environmental licenses that cause serious violations of human rights and the rights of nature, including: water privatization, effects on riverbeds, fauna, and flora, violations of the right to prior consultation, violations of the rights of victims of the armed conflict, displacements of communities, gender-based violence, limitations on movement between territories, deterritorialization, dispossession, the loss of local economies and social and cultural identities, threats and killings of environmental leaders, an increased presence of illegal armed groups, and militarization of the territories.

²⁰³Eduardo Gudynas. [?](#)

²⁰⁴Law 2111 of 2021 replaced Title XII of the Criminal Code and created a new list of criminal offenses aimed at protecting the environment as a legal good. Several crimes remain from the previous legislation, but others were created, such as Ecocide, Deforestation, and Illegal use of unused state lands (baldfíos).

²⁰⁵Office of the United Nations High Commissioner for Human Rights: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=COL&Lang=en>.

²⁰⁶According to OHCHR, a Standing Invitation is an invitation extended by a state to all thematic special procedures. By issuing a standing invitation, states are announcing that they will accept all visit requests from special procedures without issue.

²⁰⁷A letter was first sent to the High Commissioner in Geneva about the Office's behavior in Colombia due to complaints regarding police abuses in Cali. Complaints were also made by the Ambassador in Geneva and the Minister of Foreign Affairs regarding statements and statistics on murders allegedly committed by state agents during the protests. These were presented by the OHCHR Country Representative in Colombia and the High Commissioner herself, see: Infobae web portal, "Marta Lucía Ramírez pide a las Naciones Unidas "tener cuidado con las cifras" de fallecidos durante el paro nacional", 25 June 2021, available at: <https://www.infobae.com/america/colombia/2021/06/25/marta-lucia-ramirez-pide-a-las-naciones-unidas-tener-cuidado-con-las-cifras-de-fallecidos-durante-el-paro-nacional/> and El Espectador newspaper, "Alicia Arango rechaza declaraciones de Bachelet sobre

The new government has generated significant shifts in opinion about these issues²⁰⁸ but several related measures have yet to be implemented. Until March 2022, no one was in charge of the Presidential Council for Human Rights—one of the institutions responsible for monitoring compliance with international recommendations, along with the Ministry of Foreign Affairs—nor did it have an allocated staff or budget for this work.

A participatory mechanism to permanently monitor compliance with all international recommendations has yet to be created. Efforts to adopt a NAPHR have not succeeded.

12. Conclusion

Despite announcements and shifts regarding the new national government's position, which began its term in August 2022, Colombia presents serious delays in complying with recommendations made in the UPR. There have been setbacks instead of advances, specifically with peace. While there is hope that the new government will implement concrete changes in this area, there are also fears related to limited institutional capacity and transparent resource management.

It is more than evident that human rights guarantees are necessary to achieve sustainable peace.

víctimas del paro", 23 June 2021, available at: <https://www.elespectador.com/politica/alicia-arango-rechaza-declaraciones-de-bachelet-sobre-victimas-del-paro/>.

²⁰⁸On 7 August 2022, the UN Committee against Enforced Disappearances' jurisdiction to hear individual cases was recognized, the presence of the Office of the United Nations High Commissioner for Human Rights in the country was extended for nine years, and a bill was submitted to Congress to ratify the Optional Protocol to the Convention against Torture.